

MONTANA LEGISLATIVE HISTORY

Chapter 365 1977

Bill H _____ S 27

Original bill & history ☒ c

H. Committee on State Admin

Hearing Date(s) 3/14 _____ c

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ref Judiciary _____ c

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S. Committee on Judiciary

Hearing Date(s) 2/25 _____ c

2/25 _____ c

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Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

1 SENATE BILL NO. 27
2 INTRODUCED BY BLAYLOCK
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5 CLARIFY THE LAWS RELATING TO ELECTIONS AND TO REPEAL
6 SECTIONS 23-3021, 23-3030, AND 23-4404, R.C.M. 1947."
7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9 Section 1. Section 23-2601, R.C.M. 1947, is amended to
10 read as follows:
11 "23-2601. Definitions. As used in ~~this act~~ Title 23
12 and Title 37, unless the context clearly indicates
13 otherwise, the following definitions apply:
14 (1) "Election" means a general, special, or primary
15 ~~nominating, municipal election, or an election in a school~~
16 ~~district held to choose a public officer or submit an issue~~
17 for the approval or rejection of the people.
18 (2) "General election" means an election held for the
19 election of public officers throughout the state at times
20 specified by law.
21 (3) "Special election" means an election called by the
22 proper authorities to fill vacancies or to raise money.
23 (4) "Vacancy" means an office which does not have an
24 incumbent who has a right to exercise its functions and take
25 its fees or emoluments.

1 (5) "Primary" or "primary election" means a statutory
2 procedure for nominating candidates to public office at the
3 polls.
4 (6) "Party" means any political organization which at
5 the last preceding election for governor polled at least
6 ~~three per cent (3%)~~ of the votes for governor.
7 (7) "Taxpayer" means a person who has paid a tax on
8 property assessed on a county or city assessment roll next
9 preceding the election at which a question is to be
10 submitted to the vote of the taxpayers.
11 (8) "Registrar" means the county clerk and recorder
12 and any regularly appointed deputy clerk and recorder.
13 (9) "Commissioners" means the board of county
14 commissioners.
15 (10) "City" means any incorporated city or town.
16 (11) "Council" means any municipal council or
17 commission.
18 Section 2. Section 23-4777, R.C.M. 1947, is amended to
19 read as follows:
20 "23-4777. Definitions. As used in Title 23, ~~chapter~~
21 ~~47, R.C.M. 1947~~ and Title 37, unless the context clearly
22 indicates otherwise, the following definitions apply:
23 (1) "Candidate" means an individual who has filed a
24 declaration of nomination, certificate of nomination, or
25 acceptance of nomination for public office as required by

law, but does not include a candidate for national office who is subject to the provisions of federal election campaign laws.

~~(2) "Commissioner" means the commissioner of campaign finances and practices as described in section 22-4795.~~

~~(2) (2)~~ "Election" means a general, special, or primary election held to choose a public officer or submit an issue for the approval or rejection of the people.

~~(4) (3)~~ "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection including, but not limited to, initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question.

~~(5) (3)~~ "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

~~(6) (5)~~ "Contribution" means:

(a) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;

(b) a transfer of funds between political committees;

(c) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate

or political committee; but

(d) ~~"contribution"~~ does not mean services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee, ~~nor~~ or meals and lodging provided by individuals in their private residence for a candidate or other individual.

~~(7) (6)~~ "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election, but "expenditure" does not mean:

(a) services, food, or lodging provided in a manner that they are not contributions under ~~this act, nor subsection (5) i~~ or

(b) payments by a candidate for his personal travel expenses or for food, clothing, lodging, or personal necessities for himself and his family.

~~(9) (7)~~ "Anything of value" means any goods that have a certain utility to the recipient that is real and that ordinarily is not given away free, but is purchased.

~~(9) (8)~~ "Political committee" means a combination of two or more individuals, or a person other than an individual, the primary or incidental purpose of which is to support or oppose a candidate or issue or to influence the

result of an election by any expenditure.

~~(40)~~(9) "Individual" means a human being.

~~(44)~~(10) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals, or a candidate as defined in subsection (1) of this section."

Section 3. There is a new R.C.M. section that reads as follows:

Commissioner of campaign finances and practices. In 23-4778 through 23-4795, "commissioner" means the commissioner of campaign finances and practices created by 23-4785(1), unless the context clearly indicates otherwise.

Section 4. Section 23-2605, R.C.M. 1947, is amended to read as follows:

"23-2605. Time of opening and closing of polls. (1) Except as provided in subsection (2) ~~of this section~~:

(a) The in precincts having 100 or more registered electors, the polls must be opened at 8 a.m. on the morning of election day, and must be kept open continuously until 8 p.m. of that day;

(b) ~~In in~~ precincts having less than ~~one hundred~~ (100) registered electors, the polls must be opened at 1 p.m. and closed at 8 p.m. of that day;

(c) ~~Whenever~~ whenever all registered electors in any

precinct have voted, the polls shall be closed immediately.

(2) If a special election is held by a county, city, high school district, or school district on the question of incurring an indebtedness or making a special or additional levy for any purpose, the polls shall open at 12 noon and be kept open continuously until 8 p.m. However, the poll hours shall be as specified in subsection (1) ~~of this section~~ if the election is held on the same day, at the same polling places, and with the same judges and clerks as a general, county, school, or city election."

Section 5. Section 23-2704, R.C.M. 1947, is amended to read as follows:

"23-2704. Notice and closing of registration for elections on incurring of state indebtedness ~~other than for refunding or levy of tax~~. (1) If the question of state indebtedness, issuance of bonds or debentures other than for refunding, or the levy of a tax for state purposes, is submitted at an election other than a general biennial election, the registrar of each county shall publish in ~~the official county~~ a newspaper, of general circulation in the county a notice signed by him, stating that registration will close at noon on the ~~fortieth~~ (40th) day prior to the date of the election unless the act providing for the submission of the question fixes a different time for the giving of notice. The notice shall be published ~~ten~~ (10)

1 days or more prior to the date when registration will be
2 closed unless the act providing for submission of the
3 question fixes a different time for closing registration.

4 (2) If the question is to be submitted at a general
5 biennial election, notice and the closing of registration
6 shall be governed by the laws applying to general biennial
7 elections. The provisions of ~~sections 37-107, R.C.H., 1947~~
8 apply to the printing and distribution of copies of the
9 proposed law."

10 Section 6. Section 23-2802, R.C.H. 1947, is amended to
11 read as follows:

12 "23-2802. Publication and printing of amendments to
13 constitution. If a proposed constitutional amendment or
14 amendments are submitted to the people, the secretary of
15 state shall:

16 ~~(1) Have~~ have the proposed amendment or amendments
17 published in full twice each month for ~~two~~ ~~(2)~~ months
18 previous to the election at which they are to be voted upon
19 by the people in not less than one ~~(1)~~ newspaper ~~commonly~~
20 ~~circulated of general circulation~~ in each county.

21 ~~(2) Have a pamphlet printed containing an exact copy~~
22 ~~of the proposed amendment or amendments, an exact copy of~~
23 ~~existing constitutional provisions to be revised, and the~~
24 ~~amendment or amendments in the form in which it or they will~~
25 ~~be printed on the official ballot. The printed pamphlets~~

1 ~~shall be distributed as provided in sections 37-107, R.C.H.~~
2 ~~1947."~~

3 Section 7. Section 23-2901, R.C.H. 1947, is amended to
4 read as follows:

5 "23-2901. Election proclamation by the
6 governor ~~contents~~. Sixty ~~(60)~~ days or more before a general
7 election, the governor shall issue an election proclamation
8 and transmit a copy to each board of county commissioners.
9 The proclamation shall contain:

10 (1) ~~a~~ a statement of the time of the election and the
11 offices to be filled;

12 (2) ~~be an~~ an offer of rewards stating: "There is a reward
13 of ~~one hundred dollars (\$100)~~ for the arrest and conviction
14 of any person violating any of the provisions of ~~sections~~
15 ~~94-1401 through 94-1424, R.C.H., 1947 Title 23 or Title 37.~~
16 Rewards will be paid until the total amount expended reaches
17 the sum of ~~five thousand dollars (\$5,000)~~."

18 Section 8. Section 23-3002, R.C.H. 1947, is amended to
19 read as follows:

20 "23-3002. County clerk as county registrar. (1) Each
21 county clerk and recorder is ex officio county registrar. He
22 shall ~~serve without extra pay or compensation.~~

23 ~~(a) Serve without extra pay or compensation;~~

24 ~~(b) Have custody of registration books, cards, and~~
25 ~~other records provided for by this act.~~

(2) The official register of electors is an official record of the county clerk and recorder.

(3) Unless otherwise provided, the county clerk and recorder shall have custody of registration books, cards, and other records required by the election laws of this state."

Section 9. Section 23-3003, R.C.M. 1947, is amended to read as follows:

~~"23-3003. Notaries public as deputy Deputy registrars appointments of additional deputies qualifications duties. (1) All notaries public are deputy registrars in the county in which they reside. They may register electors residing in any precinct within the county. No notary public may register any voter until he has been issued a certificate of approval by the county registrar certifying that he has received instructions on registration procedure from the county registrar.~~

(2) The commissioners shall appoint a minimum of two ~~(2)~~ deputy registrars who are not notaries public, a minimum of one ~~(1)~~ from each of the two ~~(2)~~ major political parties, for each precinct in the county from lists of persons recommended by the political parties. If the parties fail to submit lists, the commissioners shall appoint deputy registrars without recommendations from the parties. The number of appointed deputy registrars for each county shall

always be equally divided between the two ~~(2)~~ major political parties. ~~& An appointed~~ deputy registrar shall

~~(a) Be~~ be a qualified resident elector in the precinct for which he is appointed.

~~(b) Register electors residing in any precinct in the county.~~

~~(c) No duly appointed deputy registrar shall register any voter until such deputy registrar shall have been issued a certificate of approval by the county registrar, certifying that said deputy registrar has received instructions on registration procedure from the county registrar.~~

(3) No deputy registrar may register a voter until that deputy registrar has been issued a certificate of approval by the county registrar certifying that the deputy registrar has received instructions on registration procedure from the county registrar.

(4) A deputy registrar who has been issued the certificate required by subsection (3) may register electors residing in any precinct of the county for which he is a deputy registrar.

~~(3)(5)~~ (5) Within ~~three~~ ~~(3)~~ days after a registration card is filled out, deputy registrars shall forward the card to the registrar. Registration cards properly executed prior to the registration deadline shall be accepted by the registrar

1 for ~~three~~ ~~(3)~~ days after the deadline."

2 Section 10. Section 23-3014, R.C.M. 1947, is amended
3 to read as follows:

4 "23-3014. Cancellation of ~~registry~~ registration for
5 other reasons ~~reregistration~~. (1) The registrar shall
6 cancel any registration card:

7 (a) ~~at~~ at the written request of the person
8 registered;

9 (b) ~~when~~ if a certificate of the death of any elector
10 is filed or if an elector is reported as deceased by the
11 department of health and environmental sciences in the
12 department's reports submitted to the county under 91-4458;

13 (c) ~~Within whenever forty-five~~ (45) days or more prior
14 to the closing of registration, three ~~(3)~~ qualified
15 registered electors residing within the precinct ~~may~~
16 challenge an elector by filing affidavits giving the name of
17 the challenged elector, his registry number, his residence,
18 and stating of the personal knowledge of the affiant the
19 person registered does not reside at the place designated on
20 his registration card;

21 (d) ~~when~~ whenever the insanity of the elector is
22 legally established;

23 (e) ~~if~~ whenever a certified copy of a final judgment
24 of conviction of any elector of a felony is filed; or

25 (f) ~~if~~ whenever a certified copy of a court order

1 directing the cancellation is filed with the registrar.

2 (2) Within ~~thirty~~ ~~(30)~~ days after registration has
3 been canceled, the registrar shall send written notice to
4 the elector at the address shown on the registration card.
5 If a person proves to the registrar that he is qualified, he
6 may reregister.

7 ~~(3) At the close of registration, the court clerk of~~
8 ~~each county shall send a list of those electors whose~~
9 ~~registrations have been cancelled due to a felony conviction~~
10 ~~to the secretary of state. The secretary of state shall~~
11 ~~compile a list of all such electors and send a copy of the~~
12 ~~list to each registrar."~~

13 Section 11. Section 23-3015, R.C.M. 1947, is amended
14 to read as follows:

15 "23-3015. Challenges prior to election ~~--- registrar's~~
16 ~~duties challenges on election day election judges' duties.~~

17 (1) An elector may challenge the qualifications of another
18 elector any time not later than ~~twenty~~ ~~(20)~~ days prior to an
19 election. The challenge must:

20 (a) ~~be~~ be filed with the registrar and be signed by
21 the elector;

22 (b) ~~be~~ be verified by the affidavit of the elector
23 that the elector designated is not entitled to vote;

24 (c) ~~State~~ state the grounds of the challenge,
25 objection, and disqualification.

~~(4) Notify the elector within five (5) days by registered United States mail that his qualifications as an elector have been challenged.~~

(2) The registrar shall:

(a) ~~File~~ file the affidavit of challenge in his office;

(b) ~~Deliver~~ deliver a correct copy of the affidavit to the judges of election together with a copy of the precinct registers, check lists, and other documents;

(c) ~~Write~~ write opposite the name of any person whose qualifications are challenged the words, "to be challenged-";

(d) notify the elector within 5 days by certified or registered mail that his qualifications as an elector have been challenged.

(3) An elector's right to vote may ~~also~~ be challenged on election day by any registered elector by orally stating to the election judges the grounds of the challenge.

(4) The election judges shall:

(a) ~~Test~~ test the qualifications of the elector challenged under oath if he applies to vote;

(b) ~~Compare~~ compare the answers of the elector with the entries in the precinct register books; and

(c) ~~Not~~ not permit him to vote if the elector is found to be disqualified because the answers given do not

correspond to the entry in the precinct registers, or the elector is disqualified for any cause under the law, or he refuses to take an oath or affirmation as to his qualifications.

(5) The election judges may require the challenged elector to produce one ~~(1)~~ or more ~~elector~~ electors of the county to be examined under oath as to the qualifications of the challenged elector, and may also request assistance from the county attorney and the registrar in determining the elector's qualifications."

Section 12. Section 23-3018, R.C.M. 1947, is amended to read as follows:

"23-3018. Name on precinct register prima facie evidence of right to vote ~~elector's identity election judges' duties as to precinct register.~~ (1) A person ~~shall~~ may not vote at an election mentioned in ~~this act~~ Title 23 or Title 37 unless his name appears on election day in the copy of the official precinct register furnished by the registrar to the election judges. The fact that his name appears in the copy of the precinct register is prima facie evidence of his right to vote.

(2) If the election judges have good reason to believe, or if they are informed by a qualified elector that the person offering to vote is not the person registered in that name, he ~~shall~~ may not be allowed to vote until he has

1 proved his identity by the oath of two ~~(2)~~ reputable
2 electors of the precinct in which he is registered.

3 ~~(2) The election judges in each precinct at every~~
4 ~~general or special election in a precinct register certified~~
5 ~~to them by the registrar shall:~~

6 ~~(a) Mark a cross (X) upon the line opposite the name~~
7 ~~of the elector;~~

8 ~~(b) Require the elector to sign his name upon one of~~
9 ~~the precinct registers;~~

10 ~~(c) Require an elector, who is not able to sign his~~
11 ~~name, to produce two (2) electors who shall make an~~
12 ~~affidavit before the election judges in a form prescribed by~~
13 ~~the secretary of state. One of the election judges shall~~
14 ~~write on the affidavit the elector's name, state his~~
15 ~~inability to sign, and the names of the electors making~~
16 ~~affidavits. The affidavits shall be returned to the~~
17 ~~registrar with the other election records."~~

18 Section 13. Section 23-3026, R.C.M. 1947, is amended
19 to read as follows:

20 "23-3026. Commissioners to provide registrar with
21 sufficient help. The commissioners shall provide the
22 registrar with sufficient help for the duties imposed by
23 ~~this act Title 23 or Title 37.~~ The cost of stationery,
24 printing, publishing, and posting ~~are~~ is a proper charge
25 against the county."

1 Section 14. Section 23-3304, R.C.M. 1947, is amended
2 to read as follows:

3 "23-3304. Declaration of nomination ~~filing fees~~
4 ~~printing of victorious write in candidates on general~~
5 ~~election ballot.~~ (1) Each candidate in the primary election,
6 shall send a declaration of nomination to the secretary of
7 state, registrar, or city clerk. Each candidate for
8 governor must send a joint declaration of nomination with a
9 candidate for lieutenant governor.

10 (2) Each candidate must sign the declaration and send
11 with it the required filing fee, or in the case of a
12 candidate who cannot afford the filing fee, send with it the
13 documents required in lieu of a filing fee. The declaration
14 of nomination shall be acknowledged by a notary public if
15 sent by mail, or by the officer of the office at which the
16 filing is made.

17 (3) The declaration, when filed, is conclusive
18 evidence that the elector is a candidate for nomination by
19 his party.

20 (4) Nominating declarations are filed:

21 (a) ~~in~~ in the office of secretary of state for
22 congressional offices, state or district offices to be voted
23 for in more than one ~~(4)~~ county, members of the ~~legislative~~
24 ~~assembly legislature~~, and judges of the district court;

25 (b) ~~in~~ in the office of the registrar for county and

district offices to be voted for in only one ~~(1)~~ county ~~only, other than judge of the district court,~~ and for ~~township and~~ precinct offices;

(c) ~~is~~ in the office of the city clerk for all city officers.

(5) Filing fees are as follows:

(a) ~~For~~ for offices having a an annual salary of ~~one thousand dollars~~ ~~(\$1,000)~~ or less ~~per annum, ten dollars~~ ~~(\$10),~~ except candidates for the legislature must pay ~~fifteen dollars~~ ~~(\$15);~~

(b) ~~For~~ for offices having a an annual salary of more than ~~one thousand dollars~~ ~~(\$1,000)~~ ~~per annum, one per cent~~ ~~(1%)~~ of the total annual salary;

(c) ~~For~~ for the ~~offices~~ office of county commissioner;

(i) in counties of the first class, ~~forty dollars~~ ~~(\$40);~~

(ii) in counties of the second class, ~~thirty-five dollars~~ ~~(\$35);~~

(iii) in counties of the third class, ~~thirty dollars~~ ~~(\$30);~~

(iv) in counties of the fourth class, ~~twenty-five dollars~~ ~~(\$25);~~

(v) in counties of other classes, ~~ten dollars~~ ~~(\$10);~~

(d) ~~For~~ for offices in which compensation is paid in

fees, ~~five dollars~~ ~~(\$5);~~

(e) ~~For~~ for state, county, and precinct committeemen, delegates to national conventions, and presidential electors, no fees are required.

(6) A person nominated by having his name written in on the primary ballot and desiring to accept the nomination shall may not have his name printed on the general election ballot unless he:

(a) ~~Files~~ files with the secretary of state, registrar, or city clerk, within at least ~~ten~~ ~~(10)~~ days after the primary a written declaration indicating his acceptance of the nomination;

(b) ~~Pays~~ pays the required filing fee or if indigent, complies with subsection (7);

(c) ~~Received~~ received at least ~~five per cent~~ ~~(5%)~~ of the votes cast for the office at the last preceding general election.

(7) ~~Indigent candidates.~~ If a person is unable to pay a filing fee, the filing officer shall accept the following documents in lieu of a filing fee:

(a) from a write-in candidate, a verified statement that he is unable to pay the filing fee;

(b) from a candidate for nomination, a verified statement that he is unable to pay the filing fee and a written petition for nomination as a candidate that meets

the following requirements:

(i) contains the name of the office to be filled, the candidate's name, residence, occupation, and business address;

(ii) is signed by ~~five percent (5%)~~ or more of the total vote cast for the successful candidate for the same office at the next preceding general election; and

(iii) is signed by electors residing within the political division of the state in which the candidate petitions for nomination.

(8) The declaration for nomination shall be in the form and contain the information prescribed by the secretary of state. Every declaration must be signed by the elector seeking nomination."

Section 15. Section 23-3305, R.C.M. 1947, is amended to read as follows:

"23-3305. Deadline for filing nominating declarations ~~persons with whom filed~~. Nominating declarations shall be filed not later than 5 p.m., ~~forty (40)~~ days before the date of the primary election. ~~Declarations for nomination to an office filled by election throughout the state, as judge of a district court, to an office filled by election in more than one (1) county, or as a member of the legislative assembly shall be filed with the secretary of state. Declarations for nomination to an office filled by election~~

~~in one (1) county, or district or city shall be filed with the registrar or city clerk."~~

Section 16. Section 23-3308, R.C.M. 1947, is amended to read as follows:

"23-3308. ~~Ballots, how arranged and voted~~ Arrangement of ballots. (1) At the primary, there shall be a ballot for each political party entitled to participate. Each ballot shall be printed on a separate sheet of white paper of the same size, folded, and securely fastened at the top.

(2) Candidates' names shall be arranged alphabetically by surnames, under the offices and under the proper party designation. The names of the candidates for governor and lieutenant governor shall be arranged by the surname of the candidate for governor. When two ~~(2)~~ or more persons are candidates for nomination for the same office, the registrar shall divide the ballot to provide a rotation of the names of the candidates as follows:

(a) ~~Divide~~ divide all county ballot forms into sets equal in number to the greatest number of candidates for nomination or election to any office;

(b) ~~Arrange~~ arrange the sets so that candidates' names are rotated by removing one name from the top of the list for each nomination or office and place the name or number at the bottom of the list for each successive set of ballot forms; however, in printing ballots for use in any one ~~(1)~~

precinct, only one ~~(4)~~ set shall be used and they shall be identical.

~~(4)~~ (3) If an elector writes the name of a person upon a ballot, and the person's name appears as a candidate upon another ballot, the ballot shall count for the person only as a candidate of the party upon whose ticket his name is written.

~~(4)~~ (4) If a person is nominated upon more than one ~~(4)~~ ticket, not later than ~~ten~~ (10) days after the election he shall file written notification with the secretary of state, registrar, or city clerk of the party under which his name is to appear upon the ballot for the general election, and, if he fails to notify the proper officers, his name shall appear under the party with whom his nominating declaration was first filed.

~~(4)~~ (5) If a person fails to be nominated upon the party ticket contained in his nominating declaration, his name ~~shall~~ may not be printed upon any ballot with party designation.

~~(4)~~ (6) ~~This act does Title 23 and Title 37 do not~~ preclude an elector from having his name printed upon the ballot as an independent candidate, and no candidate ~~shall~~ may have his name printed on more than one ~~(4)~~ ticket.

~~(3)~~ (7) Ballots shall be printed on white paper in the form of the Australian ballot, and the candidates of each

party shall be printed on a separate ticket.

~~(4)~~ (8) After preparing his ballot, the elector shall detach it from the remaining tickets and fold it so that the face is concealed and the official stamp is seen.

~~(4)~~ (9) The elector shall fold the remaining tickets, vote the marked ballot without leaving the polling place, and deposit the remaining tickets in a separate box marked as the blank ballot box.

~~(4)~~ (10) Immediately after the recount period, ~~the election judges shall, without examination, destroy as provided in 23-4103, the tickets deposited in the blank ballot box shall be destroyed.~~

Section 17. Section 23-3311, R.C.M. 1947, is amended to read as follows:

"23-3311. Tally sheets -- keeping and announcing the tally ~~statement~~. (1) The registrar shall furnish tally sheets for each political party having candidates in the primary election for each voting precinct. Tally sheets shall contain the names of the candidates, names of the political parties designated at the head, and be numbered in the order in which the names appear on the official ballot.

(2) Tally sheets shall show:

(a) ~~The~~ the number and name of each person voted for;

(b) ~~Office~~ the office for nomination to which each person was voted for;

(c) ~~Total~~ the total number of votes cast for each candidate for nomination.

(3) The election clerks and judges shall audibly announce the tally or count, and shall keep the tally in the form prescribed by the secretary of state. The tally or count shall be certified by the election clerks and judges.

(4) The election clerks shall in ink:

(a) ~~Keep~~ keep tally upon the prescribed tally sheet of each political party;

(b) ~~Total~~ total the number of tallies and write the total immediately to the right of the last tallies for each candidate and also in the columns headed "total vote";

(c) ~~Prepare~~ prepare the certificate required by subsection (3) ~~of this section~~;

(d) ~~Immediately~~ immediately upon completion of the count, sign the tally sheets, and each clerk shall certify which sheets were kept by him;

~~(4)~~ (5) If the ~~chairman~~ and judges are satisfied with the correctness of the tally sheets, they shall sign all the tally sheets.

~~(5)~~ (6) The election clerks shall then prepare a statement of that portion of the tally sheets showing the number and name and political party of each candidate for nomination and the office and total votes received by each in the precinct, and shall prepare the certificate. The

election clerks and judges who complete the count shall sign the statement and immediately post it in a conspicuous place outside of the polls. The statement shall remain posted for ~~ten~~ (10) days."

Section 18. Section 23-3312, R.C.M. 1947, is amended to read as follows:

"23-3312. Duties of election clerks and judges after canvassing votes — seal. (1) Immediately after canvassing votes, the election clerks and judges who complete the count shall enclose the pollbooks in separate envelopes and securely seal them. The election clerks and judges shall:

(a) ~~Enclose~~ enclose the tally sheets in separate envelopes and securely seal them;

(b) ~~Enclose~~ enclose the precinct registers in separate envelopes and securely seal them;

(c) ~~Enclose~~ enclose all ballots fastened together and in separate envelopes and securely seal them;

(d) ~~Specify~~ specify in ink the contents, and address each package to the registrar of the county in which the election precinct is situated;

(e) ~~Mark~~ mark the sealed ballot packages on the outside showing what numbers are contained, but once sealed they ~~are~~ may not be opened until ordered by the proper court.

(2) When the count is completed, the sealed ballots

shall be placed in two (2) ballot boxes, the boxes locked and the seal of the board pasted over the keyhole and rim of the lid so that to open the box the seal must be broken. The registrar or ~~the canvassers~~ those persons making the abstracts of the votes shall may not break the seal, nor shall may anyone break the seal except upon court order in case of contest or on order of the commissioners when the boxes are needed for the ensuing election."

Section 19. Section 23-3313, R.C.M. 1947, is amended to read as follows:

"23-3313. Abstracts of votes, ~~==~~ when and how made ~~— decision by lot in event of tie certificate for compensation highest number of votes nominates.~~ (1) At 8 a.m. on the third day after the close of any primary election, or at 8 a.m. on a day sooner if all the returns are in, the registrar, taking two (2) assistants who are justices of the peace, county commissioners, or either, shall open the returns and make abstracts of the votes.

(2) Abstracts of votes for nomination of each party for ~~governor, lieutenant governor, secretary of state, attorney general, state auditor, superintendent of public instruction, public service commissioners, clerk of the supreme court, state treasurer, justices of the supreme court, United States senators, United States representatives, judges of the district court, and members~~

~~of the legislative assembly, congressional offices, state or district offices to be voted on in more than one county, members of the legislature, and judges of the district court~~ shall be on one (1) sheet, separately for each political party, ~~and shall be forthwith transmitted to the secretary of state, as required by section 23-3314. The registrar, immediately after making the abstracts of votes, shall send by mail a copy of each of the abstracts to the secretary of state.~~

(3) Abstracts of votes for county and district offices to be voted on in only one county, other than judge of the district court, and precinct offices shall be placed on separate sheets for each political party, and the registrar shall certify the nomination for each party and enter upon his register of nominations the name of each of the persons having the highest number of votes for nomination. He shall notify each person who is nominated by mail.

(4) If there is a tie for the same nomination in one (1) party, the registrar shall notify the affected persons to come to his office at a time set by the registrar. The registrar shall then decide publicly by lot which of the persons is the nominee. The registrar shall enter the name of the person chosen as nominee upon his register of nominations.

(5) The registrar shall, on receipt of the primary

returns, make out a certificate stating the compensation the election clerks and judges are entitled to and transmit this certificate to the commissioners. The commissioners shall order the compensation paid out of the county treasury.

(6) In all primary elections, the person having the highest number of votes for nomination to any office is the nominee for his political party for that office."

Section 20. Section 23-3314, R.C.M. 1947, is amended to read as follows:

"23-3314. ~~Copy of abstracts to be sent secretary of state~~ Canvass by secretary of state — governor's certificate of nomination and proclamation — decision by lot in event of tie. ~~(1) The registrar, immediately after making the abstracts of votes, shall send a copy of each of the abstracts by mail to the secretary of state.~~

~~(2) (1)~~ The secretary of state shall, in the presence of the governor and the ~~state treasurer~~ superintendent of public instruction, proceed not later than ~~fifteen~~ ten days after the date of the primary election to canvass the votes given for nomination for ~~governor and lieutenant governor, United States senator, United States representative, attorney general, superintendent of public instruction, public service commissioners, secretary of state, state treasurer, state auditor, justices of the supreme court, clerk of the supreme court, judges of the district court,~~

~~members of the legislative assembly, and all other officers voted in any district comprising more than one county congressional offices, state or district offices to be voted on in more than one county, members of the legislature, and judges of the district court.~~

~~(3) (2)~~ The governor shall grant a certificate of nomination to the person having the highest number of votes for each office, and shall issue a proclamation declaring the nomination of each person by his party.

~~(4) (3)~~ When a tie exists between two ~~(2)~~ or more persons for nomination in the same party, the secretary of state shall immediately give notice to the persons tied, to attend in person or by attorney, at his office at a time appointed by him. He shall then publicly decide by lot which person is nominated by his party. The governor shall issue his proclamation declaring the nomination of that person."

Section 21. Section 23-4016, R.C.M. 1947, is amended to read as follows:

"23-4016. ~~State canvassers, composition~~ Composition and meeting of board of state canvassers. Within ~~twenty~~ ten days after the election, or sooner if the returns are all received, the state auditor, ~~state treasurer~~ superintendent of public instruction, and attorney general shall meet as a board of state canvassers in the office of the secretary of state and determine the vote. The secretary of state, who is

1 secretary of the board, shall make out and file in his
2 office a statement of the canvass and transmit a copy to the
3 governor."

4 Section 22. Section 23-3315, R.C.M. 1947, is amended
5 to read as follows:

6 "23-3315. Error in ballot or other wrongful or
7 neglectful act. (1) ~~Whenever The court shall order an~~
8 ~~officer or person charged with a wrongful act or neglect to~~
9 ~~perform his duties or show cause why the order should not~~
10 ~~issue whenever~~ it appears by affidavit to the district
11 court, to the supreme court, or to a supreme court judge:

12 (a) ~~That that~~ an error or omission has occurred, or is
13 about to occur, in the printing of the name of any candidate
14 or other matter on the official primary nominating election
15 ballots;

16 (b) ~~That that~~ any error has been, or is about to be,
17 committed in the printing of the ballots;

18 (c) ~~That that~~ the name of any person or any other
19 matter has been, or is about to be, wrongfully placed upon
20 the ballots;

21 (d) ~~That that~~ any wrongful act has been performed by
22 any judge or clerk of the primary election, registrar,
23 canvassing board or member, or by any person charged with a
24 duty under ~~this act, Title 23 or Title 37~~ or that any
25 neglect of duty by any of the persons has occurred or is

1 about to occur; ~~the court shall require by order the officer~~
2 ~~or person charged with the act or neglect to perform his~~
3 ~~duties required by law or show cause why the order should~~
4 ~~not issue.~~

5 (2) Failure to obey the court order is contempt.

6 (3) Any person aggrieved by the refusal or failure of
7 any person to perform any duty required by ~~this act shall~~
8 Title 23 or Title 37, without derogation of any other right
9 or remedy, ~~he is~~ entitled to seek a writ of mandamus in the
10 district court and the proceeding shall be immediately heard
11 and decided."

12 Section 23. Section 23-3316, R.C.M. 1947, is amended
13 to read as follows:

14 "23-3316. Contest — notice — hearing — how tried
15 and decided — certificate. (1) Five ~~(5)~~ days or less after
16 a person has been nominated, any person wishing to contest
17 the nomination to any state, county, district, ~~township,~~
18 precinct, or city office shall give notice in writing to the
19 person whose nomination he intends to contest briefly
20 stating the cause for the contest.

21 (2) The contestant shall make application to the
22 district court judge in the county where the contest is to
23 be had. The judge shall then set the time for the hearing.

24 (3) The contestant shall serve notice ~~three (3)~~ days
25 before the hearing is scheduled. The notice shall state the

time and place of the hearing.

(4) The judge of the district court shall hear and determine the case and make all necessary orders for the trial of the case and carrying his judgment into effect. The order of the judge shall express the will of a majority of the legal voters of the political party, as indicated by their votes, disregarding technicalities or errors in spelling.

(5) Each party is entitled to subpoenas.

(6) The registrar shall issue a certificate to the person declared nominated by the court. The certificate shall be conclusive evidence of the right of the person to hold the nomination."

Section 24. Section 23-3319, R.C.M. 1947, is amended to read as follows:

"23-3319. Certificates of nominations to be preserved — certification of candidates' names and descriptions — statement of votes received by candidate. (1) The secretary of state, registrars, and city clerks shall preserve all certificates of nominations for ~~one~~ ^{one} year. All certificates shall be open to public inspection under rules adopted by the various offices.

(2) Forty-five ~~(45)~~ days or more before an election, the secretary of state shall certify to the registrars the name and description of each person nominated, as specified

in the certificates of nomination filed with him.

~~(3) Each election board shall transmit to the secretary of state a statement of the number of votes cast for a person as the candidate for the independent body by which he was nominated."~~

Section 25. Section 23-3403, R.C.M. 1947, is amended to read as follows:

~~"23-3403. Committees' powers state central committee to appoint county central committee where none exists Powers of county and city central committees — role of state central committee where no county central committee exists."~~

(1) The county and city central committee may:

(a) ~~make~~ ^{make} rules for the government of its political party in each county, not inconsistent with any of the provisions of ~~this act nor the election laws of this state~~ ^{or the rules of its state political party};

(b) ~~Elect~~ ^{elect} two ~~(2)~~ county members of the state central committee, one ~~(1)~~ ^{of whom} shall be a man and one ~~(1)~~ ^{of whom} shall be a woman; ~~elect~~ the members of the congressional committee, and fill all vacancies and make rules in their jurisdiction.

(2) If there is no county central committee, the state central committee shall appoint a county central committee."

Section 26. Section 23-3405, R.C.M. 1947, is amended to read as follows:

"23-3405. Organization of committee — meeting — county convention to elect delegates and alternates to state convention. (1) The committee shall meet prior to the state convention of its political party and organize by electing a chairman and one ~~(4)~~ or more vice-chairmen. The chairman or first vice-chairman shall be a woman. ~~They~~ The committee shall elect a secretary and other officers as are proper. It is not necessary for the officers to be precinct committeemen.

(2) The committee may select managing or executive committees and authorize subcommittees to exercise ~~any and~~ all powers conferred upon the county, city, state, and congressional central committees by ~~this act~~ the election laws of this state.

(3) The chairman of the county central committee shall call the central committee meeting and not less than ~~four~~ ~~(4)~~ days before the date of the central committee meeting shall publish the call in a newspaper published at the county seat and mail a copy of the call to each precinct committeeman. If party rules permit the use of a proxy, no proxy ~~shall~~ may be recognized unless held by an elector of the precinct of the committeeman executing it.

(4) The county chairman of the party shall preside at the county convention. No person other than a duly elected or appointed committeeman or officer of the committee is

entitled to participate in the proceedings of the committee.

(5) If a committeeman is absent, the convention may fill the vacancy by appointing some qualified elector of the party, resident in the precinct, to represent the precinct in the convention.

(6) The county convention shall elect delegates and alternate delegates to the state convention under rules of the state party. The chairman and secretary of the county convention shall issue and sign certificates of election of the delegates."

Section 27. Section 23-3506, R.C.M. 1947, is amended to read as follows:

"23-3506. Registrar to provide printed ballots — marking by electors — other ballots ineffective. Except as otherwise provided in ~~this act~~ the election laws of this state:

(1) ~~The~~ the registrar shall provide printed ballots for every election for public officers. He shall print on the ballot the names of all candidates, including candidates for chief justice and ~~associate~~ justices of the supreme court, and judges of the district courts;

~~(2) An elector may write or paste on his ballot the name of any person for whom he desires to vote for any office, but must mark it as provided in section 23-3606. When the ballot is marked in this manner it must be counted~~

~~the case as though the name is printed upon the ballot and marked by the voter;~~

~~(2) (2)~~ Ballots ballots other than those printed by the registrars may not be cast or counted in any election."

Section 28. Section 23-3512, R.C.M. 1947, is amended to read as follows:

"23-3512. Columns and material to be printed on ballot. (1) Each ballot shall contain three ~~(3)~~ categories with at least one ~~(4)~~ column for each category.

(2) At the head of the first column to the left shall be the words, "STATE AND NATIONAL," in boldface type, followed by a list of all candidates for state and national offices, including supreme court justices, district court judges, and members of the legislative assembly legislature, and the list shall progressively continue to the top of the second column.

(3) Next shall be the words ~~"COUNTY AND TOWNSHIP,"~~ word "COUNTY" in large boldface type and beneath the heading all candidates for county ~~and township~~ offices. The list shall progressively continue on to the top of the third column.

(4) Next shall be the words "INITIATIVES, REFERENDUMS, AND CONSTITUTIONAL AMENDMENTS," in boldface type, and listed thereunder shall be all proposed constitutional amendments and measures to be voted which do not involve the creation

of any state levy, debt, or liability. If there are no such measures, this heading shall be eliminated.

(5) Following each except the last column, the words "VOTE IN THE NEXT COLUMN" shall appear.

(6) All measures involving the creation of a state levy, debt, or liability shall be submitted to the voters upon a separate official ballot.

(7) Each ballot shall be printed so that all the matters printed are equally apportioned among the three ~~(3)~~ categories columns as nearly as possible."

Section 29. Section 23-3513, R.C.M. 1947, is amended to read as follows:

"23-3513. Order of placement. (1) The order of offices on the ballot in the first column designated "STATE AND NATIONAL," shall be as follows:

(a) If the election is in a year in which a president of the United States is to be elected, in spaces separated from the balance of the party tickets by a heavy black line, shall be the names and spaces for voting for candidates for president and vice-president. The names of candidates for president and vice-president for each political party shall be grouped together.

(b) United States senator;

(c) United States representative;

(d) Governor and lieutenant governor;

1 (e) Secretary of state;
 2 (f) Attorney general;
 3 ~~(g) State treasurer;~~
 4 ~~(h) (g)~~ State auditor;
 5 ~~(i) (h)~~ Public service commissioners;
 6 ~~(j) (i)~~ State superintendent of public instruction;
 7 ~~(k) (j)~~ Clerk of the supreme court;
 8 ~~(l) (k)~~ Chief justice of the supreme court;
 9 ~~(m) (l)~~ ~~Associate justices~~ Justices of the supreme
 10 court;
 11 ~~(n) (m)~~ District court judges;
 12 ~~(o) (n)~~ State senators;
 13 (o) ~~members~~ Members of the house of representatives.
 14 (2) If any offices are not to be elected, they shall
 15 not be designated but the order of offices to be filled
 16 shall maintain their relative positions.
 17 ~~(3) (2)~~ In the column designated, "COUNTY ~~AND~~
 18 ~~TOWNSHIP,~~" the following order of placement shall be
 19 observed:
 20 (a) ~~Clerk~~ clerk of the district court;
 21 (b) ~~County~~ county commissioner;
 22 (c) ~~County~~ county clerk and recorder;
 23 (d) ~~Sheriff~~ sheriff;
 24 (e) ~~County~~ county attorney;
 25 (f) ~~County~~ county auditor;

1 (g) ~~Other~~ other offices in the order designated by the
 2 registrar.
 3 ~~(3) (4)~~ In the third column constitutional amendments
 4 shall be followed by referendum and initiative measures."
 5 Section 30. Section 23-3515, R.C.M. 1947, is amended
 6 to read as follows:
 7 "23-3515. Stub, size and contents. (1) The ballot
 8 shall be printed on the same leaf with a stub, ~~and~~ separated
 9 by a ~~perforated stub~~ perforation.
 10 (2) The stub shall extend the entire width of the
 11 ballot, and have instructions printed on it.
 12 (3) Upon the face of the stub shall be printed, in
 13 type called brevier capitals, the following:
 14 (a) "This ballot should be marked with an 'X' in the
 15 square before the ~~names~~ name of each person or candidate for
 16 whom the elector intends to vote. The elector may write in
 17 blank spaces, or paste over another name, the name of a
 18 person for whom he wishes to vote, and vote by marking an
 19 'X' in the square before the name."
 20 (b) "If a ballot contains a constitutional amendment,
 21 or other question to be submitted to a vote of the people,
 22 it is voted on by marking an 'X' in the square before the
 23 amendment or question."
 24 (4) On the front of the stub shall be printed or
 25 stamped, by the registrar or other officer, the consecutive

1 number of the ballot, beginning with number ~~one~~ {1} and
 2 increasing in regular numerical order to the total number of
 3 ballots required for the precinct."

4 Section 31. Section 23-3606, R.C.M. 1947, is amended
 5 to read as follows:

6 "23-3606. Method of voting. (1) On receipt of his
 7 ballot, the elector must immediately retire to one of the
 8 booths and prepare his ballot.

9 (2) He shall prepare his ballot by marking an "x" in
 10 the square before the name of the person or persons for whom
 11 he intends to vote.

12 (3) If the ballot contains a constitutional amendment,
 13 or other question to be submitted to the vote of the people,
 14 he shall mark an "x" in the applicable square indicating his
 15 vote either for or against the amendment or question.

16 (4) The elector may write in the blank spaces, or
 17 paste over any other name, the name of any person for whom
 18 he wishes to vote, and may vote for that person by marking
 19 an "x" before the name. When the ballot is marked in this
 20 manner, it must be counted the same as though the name is
 21 printed upon the ballot and marked by the voter.

22 (5) After preparing his ballot the elector must fold
 23 it so the face of the ballot will be concealed and the
 24 endorsements may be seen, and hand it to the election judges
 25 who shall announce the name of the elector and the printed

1 or stamped number on the stub in a loud tone of voice. The
 2 judge must announce the voter's name and record the name in
 3 the pollbook. If the voting is in a city, the voter's
 4 residence shall also be announced and recorded in the
 5 pollbook.

6 (6) If the elector is entitled to vote, and if the
 7 printed or stamped number is the same as that entered on the
 8 pollbooks as the number on the stub, the judge shall receive
 9 the ballot, and remove the stub in sight of the elector,
 10 depositing each ballot in the ballot box and each stub in a
 11 box for detached ballot stubs.

12 (7) Any elector who spoils his ballot may, on
 13 returning the spoiled ballot, receive another in place of
 14 it."

15 Section 32. Section 23-3610, R.C.M. 1947, is amended
 16 to read as follows:

17 "23-3610. Marking precinct register book before
 18 elector votes — procedure. (1) The election judges at every
 19 primary, general, or special election shall, in the precinct
 20 register book, mark a cross (X) upon the line opposite to
 21 the name of the elector.

22 (2) Before an elector is permitted to vote, the
 23 election judges shall require the elector to sign his name
 24 on the place designated in the precinct register.

25 (3) The election judges shall require an elector not

able to sign his name to produce two ~~(2)~~ electors who shall make an affidavit before one or more of the election judges, ~~or one (1) of them~~, in a form prescribed by the secretary of state.

(4) The affidavit shall be filed by the election judges, and returned to the registrar with the returns of the election. One ~~(1)~~ of the judges shall write the elector's name, ~~also~~ noting the fact of his inability to sign, and the names of the two ~~(2)~~ electors.

(5) If the elector fails or refuses to sign his name, and if unable to write fails to procure two ~~(2)~~ electors who will take the oath required, he shall may not be allowed to vote.

~~(6) Immediately after the canvass of the returns, the election judges shall deliver to the registrar the official register, sealed, with the election returns and pollbook which have been used for the election.~~

~~(7)~~ (6) Each precinct shall keep a list of persons voting, and the name of each person who votes shall be entered in it and numbered in the order voting. This list is known as the pollbook."

Section 33. Section 23-3611, R.C.M. 1947, is amended to read as follows:

"23-3611. Grounds of challenge. A person offering to vote may be orally challenged by any elector of the county,

upon the following grounds:

(1) ~~That that~~ he is not the person whose name appears on the register or checklist;

(2) ~~That he has been adjudicated insane or is confined to a state institution that he is of unsound mind, as determined by a court;~~

(3) ~~That that~~ he has voted before in that ~~day~~ election;

(4) ~~That that~~ he has been convicted of a felony and ~~has not been pardoned is serving a sentence in a penal institution."~~

Section 34. Section 23-3612, R.C.M. 1947, is amended to read as follows:

"23-3612. Proceedings ~~on~~ pursuant to challenges ~~for want of identity, having voted before, and conviction of felony -- oaths.~~ (1) If the challenge is on the ground that the person is not the person whose name appears on the official register, the election judges shall administer the following oath: "You do swear (or affirm) that you are the person whose name is entered on the official register and precinct list."

(2) If the challenge is on the ground that the person has voted before in that ~~day~~ election, the judges shall administer this oath: "You do swear (or affirm) that you have not ~~before~~ voted before in this day election."

(3) If the challenge is on the ground that the person has been convicted of a felony and is serving a sentence in a penal institution, the judges shall administer the following oath: "You do swear (or affirm) either that you have not been convicted of a felony or that, if you have been convicted of a felony, you are not serving a sentence in a penal institution."

Section 35. Section 23-3613, R.C.M. 1947, is amended to read as follows:

~~"23-3613. Challenges, how determined~~ Determination of challenges. (1) Challenges on the grounds that the person is not the person whose name appears on the official register or that the person has before voted that day are determined in favor of the person challenged by his taking the oath tendered.

(2) A challenge that the person has been convicted of a felony and not pardoned must be determined in favor of the challenged on his taking the oath tendered, ~~unless the conviction is proved by producing an authenticated copy of the record, or by oral testimony of two (2) witnesses.~~

~~(a) If a person convicted of a felony states he was pardoned, he must exhibit his pardon or certified copy to the election judges.~~

~~(b) If the pardon is found sufficient, the election judges shall administer this oath: "You do swear (or affirm)~~

~~that you have not been convicted of any felony other than that for which a pardon is now exhibited."~~

~~(c) After taking the oath, the person must be allowed to vote if otherwise qualified, unless a conviction of some other felony is proved."~~

Section 36. Section 23-3708, R.C.M. 1947, is amended to read as follows:

"23-3708. Disposition of marked ballot upon receipt by registrar or clerk. (1) Upon receipt of the envelope, the registrar, city clerk, or clerk of a first class school district shall immediately enclose it in a larger envelope, together with the elector's application, and seal ~~it~~ the larger envelope.

(2) The registrar, city clerk, or clerk of a first class school district shall safely keep it in his office until delivered or mailed by him."

Section 37. Section 23-3711, R.C.M. 1947, is amended to read as follows:

"23-3711. Duty of election judges — pollbooks, and numbering ballots ~~and rejected ballots.~~ (1) The election judges, at the opening of the polls, shall note on the pollbooks opposite the numbers corresponding to the number of absentee ballots issued the fact that the ballots were issued and reserve the numbers for the absent or physically incapacitated voters. The notation may be made by writing

1 the words "absent or physically incapacitated voters"
2 opposite the numbers.

3 (2) The election judges shall insert only the ~~names~~
4 name of the elector entitled to each particular number
5 according to the certificate of the registrar or city clerk
6 and the number of his ballot.

7 ~~(2) Any absentee ballots which have been rejected~~
8 ~~shall be placed with the voter's application and the absent~~
9 ~~or physically incapacitated voter's envelope furnished by~~
10 ~~the registrar or city clerk.~~

11 ~~(a) This envelope shall be sealed and endorsed by the~~
12 ~~words, "rejected absentee ballots," numbered, and shall~~
13 ~~put on it the number of the absentee ballots given according~~
14 ~~to the registrar's or city clerk's certificate.~~

15 ~~(b) There shall be a separate enclosing envelope for~~
16 ~~the absentee ballots rejected, and the envelopes shall be~~
17 ~~placed in an envelope together with other ballots, and shall~~
18 ~~not be opened without a court order."~~

19 Section 38. Section 23-3713, R.C.M. 1947, is amended
20 to read as follows:

21 "23-3713. Envelopes containing ballots — deposit in
22 box and rejection of ballot. (1) While the polls are open on
23 election day, the election judges shall first open the outer
24 envelope only, and compare the signature of the voter on the
25 application and on the affirmation.

1 (2) If the election judges find that the signatures
2 correspond, that the affirmation is sufficient, and that the
3 absentee elector is qualified and has not yet voted, they
4 shall open the absentee voter's envelope and take out the
5 ballot or ballots and, without unfolding ~~it then~~ or
6 permitting ~~it then~~ to be examined, ascertain whether the
7 ~~stab is~~ stabs are still attached and whether the ~~number~~
8 ~~corresponds~~ numbers correspond to the ~~number~~ numbers in the
9 certificate of the registrar or city clerk.

10 (3) If so, they shall endorse ~~at the ballots~~ the same
11 way that other ballots are endorsed, detach the ~~stab~~ stabs,
12 deposit the ballots in the proper ballot boxes, and make
13 entries in their election records to show the elector has
14 voted.

15 (4) If the affirmation is found defective, the numbers
16 do not correspond, or the voter is unqualified, the election
17 judges, without opening the absentee ballot, shall mark
18 across the face of it "rejected as defective" or "rejected
19 as not an elector-".

20 (5) The absentee ballot envelope, when it has been
21 voted ~~or rejected~~, shall be deposited in the ballot box
22 containing the general or party ballots, and shall be
23 retained and preserved in the manner provided for official
24 ballots.

25 (6) If, upon opening the absentee ballot envelope, it

1 is found that the stub of any ballot has been detached, or
2 that the number does not correspond to the number on the
3 certificate of the registrar or clerk, the ballot shall be
4 rejected. It shall be marked on back as "rejected for
5", filling the blank with the reason. This statement
6 shall be dated and signed by a majority of the election
7 judges.

8 (7) The rejected ballots, together with the absentee
9 ballot envelope bearing the application, shall be enclosed
10 in an envelope, sealed, and the judges shall write on the
11 envelope, "rejected ballot of absentee voter" (writing in
12 the elector's name). "The rejected ballot(s) is (are)
13"

14 (8) The election judges shall designate the rejected
15 ballot as "general ballot," if it is a ballot for
16 candidates ~~that are rejected~~.

17 (9) If the rejected ballot is on a question submitted
18 to the vote of the electors, the judges shall designate it
19 as ballot question No. ~~in the certificate~~ on the
20 envelope.

21 (10) A separate enclosing envelope shall be used for
22 each absentee ballot rejected. This envelope shall be
23 placed in the envelope in which the other ballots voted are
24 required to be placed and shall not be opened without a
25 court order.

1 (11) The registrar or clerk shall provide and deliver
2 to the election judges suitable envelopes for enclosing
3 rejected absentee ballots."

4 Section 39. Section 23-3715, R.C.M. 1947, is amended
5 to read as follows:

6 "23-3715. Opening of envelopes after deposit. If an
7 envelope containing an absentee ballot has been deposited
8 unopened in the ballot box and the envelope has not been
9 marked rejected, the envelope shall be opened without a
10 court order and the ballot cast."

11 Section 40. Section 23-3801, R.C.M. 1947, is amended
12 to read as follows:

13 "23-3801. Voting machines — secretary of state. (1)
14 Before any voting machine can be used, the secretary of
15 state shall:

16 (a) ~~Examine~~ examine the machine to determine if it
17 complies with the requirements of ~~sections~~ 23-3801 through
18 ~~23-3822~~ 23-3819 and 23-3822;

19 (b) ~~Within thirty~~ within 30 days after examining a
20 machine, file a report in his office on each machine
21 examined;

22 (c) ~~Within five~~ within 5 days after filing the
23 report, transmit to the commissioners, city council, or
24 other board having control of elections in each county or
25 city a list of the machines approved.

(2) A machine shall not be used unless approved by the secretary of state ~~sixty~~ (60) days or more prior to the election.

(3) The secretary of state may employ and compensate qualified mechanics who are electors to assist him in duties required by this chapter ~~and compensate them~~.

(4) The person or company submitting a machine for examination before the filing of the report shall pay the compensation and expenses of mechanics connected with the examination to the secretary of state for deposit in the state general fund."

Section 41. Section 23-3807, R.C.M. 1947, is amended to read as follows:

"23-3807. Registrar to instruct election judges. (1) Before each election, the registrar shall instruct all election judges in the use of the machine and their duties. He shall give to each election judge ~~that who~~ who has received instruction, and is fully qualified to conduct the election with the machine, a certificate to that effect.

(2) The registrar shall call meetings of the election judges as necessary for instruction. Election judges shall attend meetings as necessary to receive the proper instructions.

(3) An election judge ~~shall~~ may not serve if voting machines are used unless he has received instruction, is

fully qualified to perform duties in connection with the machine, and has received a certificate to that effect from the ~~custodian~~ registrar. However, this ~~shall~~ section does not prevent an emergency appointment of an election judge."

Section 42. Section 23-3822, R.C.M. 1947, is amended to read as follows:

"23-3822. ~~Applicability of General~~ election laws ~~in general where not in conflict with this chapter to apply.~~ All laws applicable to elections where voting is not done by machine, and all penalties prescribed for violations of those laws, apply to elections and precincts where voting machines are used if they are not in conflict with the provisions of ~~sections 23-3801 through 23-3824~~ 23-3819."

Section 43. Section 23-3905, R.C.M. 1947, is amended to read as follows:

"23-3905. Procedure upon closing polls. (1) In precincts where an electronic voting system is used, as soon as the polls are closed, the election judges shall secure the marking devices against further voting. They shall thereafter open the ballot box and count the number of ballots or envelopes containing ballots that have been cast to determine that the number of ballots does not exceed the number of voters shown on the poll or registry lists. If there is an excess, this fact shall be reported in writing to the appropriate election officer in charge with the

1 reasons therefor, if known. The total number of voters shall
 2 be entered on the tally sheets. The election judges shall
 3 thereupon count the write-in votes and prepare a return of
 4 such votes on forms provided for this purpose. If ballot
 5 cards are used, all ballots on which write-in votes have
 6 been recorded shall be serially numbered, starting with the
 7 number one, and the same number shall be placed on the
 8 ballot card of the voter. The ~~inspectors or other~~
 9 ~~appropriate precinct election officials~~ judges shall compare
 10 the write-in votes with the votes cast on the ballot card,
 11 and if the total number of votes for any office exceeds the
 12 number allowed by law, a notation to that effect shall be
 13 entered on the back of the ballot card and ~~it~~ it shall be
 14 returned to the counting location in an envelope marked
 15 "defective ballots", ~~and such~~ such invalid votes shall not
 16 not be counted. So far as applicable, provisions relating to
 17 defective paper ballots shall apply.

18 (2) The election judges shall place all ballots that
 19 have been cast in the container provided for that purpose,
 20 which shall be sealed and delivered ~~forthwith~~ immediately by
 21 the election judges to the counting location or other
 22 designated place, together with the unused, void, and
 23 defective ballots and returns.

24 (3) All proceedings at the counting location shall be
 25 under the direction of the registrar or city clerk under the

1 observation of at least three election judges designated by
 2 the commissioners or city council and shall be open to the
 3 public, but no persons except those employed and authorized
 4 for the purpose shall may touch any ballot, ballot
 5 container, or return. If any ballot is damaged or defective
 6 so that it cannot properly be counted by the automatic
 7 tabulating equipment, a true duplicate copy shall be made of
 8 the damaged ballot in the presence of witnesses and
 9 substituted for the damaged ballot. Likewise, a duplicate
 10 ballot shall be made of a defective ballot which shall may
 11 not include the invalid votes. All duplicate ballots shall
 12 be clearly labeled "duplicate," shall bear a serial number
 13 which shall be recorded on the damaged or defective ballot,
 14 and shall be counted in lieu of the damaged or defective
 15 ballot.

16 (4) The return printed by the automatic tabulating
 17 equipment, to which has been added the return of write-in
 18 and absentee votes, shall constitute the official return of
 19 each precinct or election district. Upon completion of the
 20 count the returns shall be open to the public."

21 Section 44. Section 23-4011, R.C.M. 1947, is amended
 22 to read as follows:

23 "23-4011. Canvass County Canvass to be public --
 24 nonessentials to be disregarded ~~in counting returns~~. (1) The
 25 canvass shall be public. It shall proceed by opening the

returns, and determining the vote for each person and each proposition from each precinct, and ~~a declaration of declaring~~ the results.

(2) The returns shall not be rejected if they do not show who administered the oath to the election judges or clerks, because of failure to complete all the certificates in the pollbooks, or because of failure of any other act making up the returns that is not essential to determine for whom the votes were cast."

Section 45. Section 23-4013, R.C.H. 1947, is amended to read as follows:

"23-4013. Declaration of persons elected ~~certifying~~ ~~the~~. (1) The board shall declare elected the persons having the highest number of votes given for each ~~office to be filled in a single county or subdivision of a county~~ county and district office voted for in only one county, other than judge of the district court and each precinct office.

(2) If a recount shows that two ~~(2)~~ or more persons received an equal and sufficient number of votes for the office of state senator or state representative, the county recount board shall certify this to the governor."

Section 46. Section 23-4014, R.C.H. 1947, is amended to read as follows:

"23-4014. Certificates issued by the clerk. (1) The clerk shall immediately deliver to each person declared

elected by the board a certificate of election signed by him and authenticated with the seal of the board.

(2) The certificate shall state that the official bond must be filed within ~~thirty~~ ~~(30)~~ days after notice of election or appointment and that failure to file the bond vacates the office.

~~(3) This certificate shall not be issued to persons elected district judge."~~

Section 47. Section 23-4015, R.C.H. 1947, is amended to read as follows:

"23-4015. State returns, how made and transmitted. (1) After a general or special election, the clerk shall make an abstract of the vote for ~~members of the legislative assembly, for officers elected in the state at large, and for judicial officers other than justices of the peace~~ congressional offices, state or district offices voted for in more than one county, members of the legislature, and judges of the district court.

(2) The clerk shall seal the abstract, endorse it "Election Returns," and immediately send it to the secretary of state by certified or registered mail."

Section 48. Section 23-4103, R.C.H. 1947, is amended to read as follows:

"23-4103. Conditions under which recount to be made. A recount shall be made under any of the following

conditions:

(1) If a candidate ~~other than for the office of district judge for a county or district office voted for in only one county, other than judge of the district court, or a precinct office~~ is defeated by a margin not exceeding ~~one-fourth of one per cent (1/4 of 1%)~~ of the total votes cast or by a margin not exceeding ~~ten (10)~~ votes, whichever is greater, he may within ~~five (5)~~ days after the official canvass file with the registrar a verified petition stating he believes a recount will change the result and a recount of the votes for the office or nomination should be had.

(2) If a candidate ~~is defeated for the office of district judge or an office voted on in more than one (1) county for a congressional office, a state or district office voted on in more than one county, the legislature, or judge of the district court~~ is defeated by a margin not exceeding ~~one-fourth of one per cent (1/4 of 1%)~~ of the total votes cast for all candidates for the same position, he may within ~~five (5)~~ days after the official canvass file a petition with the secretary of state as set forth in subsection (1) ~~of this section~~. The secretary of state shall immediately notify each registrar whose county includes any precincts which voted for the same office by certified or registered mail, and a recount shall be conducted in those precincts.

(3) If a question submitted to the vote of the people of the state is decided by a margin not exceeding ~~one-fourth of one per cent (1/4 of 1%)~~ of the total votes cast for and against the question, a petition as set forth in subsection (1) ~~of this section~~ may be filed with the secretary of state. This petition shall

~~(a) be~~ be signed by not less than ~~one hundred (100)~~ electors of the state representing at least five ~~(5)~~ counties of the state and be filed within ~~five (5)~~ days after the official canvass.

~~(b) (1)~~ (1) The secretary of state shall immediately notify each registrar by certified or registered mail of the filing of the petition, and a recount shall be conducted in all precincts in each county.

~~(4) (5)~~ If there is a tie vote, the board making the canvass shall certify the vote ~~to the registrar if the election took place only in one (1) county and to the secretary of state for other elections. The registrar or secretary of state shall proceed as if a petition for recount had been filed under this act. If a tie exists after the recount, the tie shall be resolved as provided by law;~~

(a) to the registrar, if the election was for a county or district office voted on in only one county, other than judge of the district court, or a precinct office or a ballot issue voted on in only one county;

(b) to the secretary of state, if the election was for a congressional office, a state or district office voted on in more than one county, the legislature, or judge of the district court or a ballot issue voted on in more than one county.

(6) When a tie has been certified to the registrar or secretary of state, as provided in subsection (5), he shall proceed as if a petition for a recount has been filed. If a tie exists after the recount, the tie shall be resolved as provided by law."

Section 49. Section 23-4117, R.C.M. 1947, is amended to read as follows:

"23-4117. Certification of recount results—transmittal to secretary of state—corrected abstract of votes—new certificate of election or nomination Procedure after recount. (1) Immediately after the recount the county recount board shall certify the result.

(2) At least two (2) members of the board shall sign the certificate, and it shall be attested to under seal by the registrar.

(3) The certificate shall set forth in substance the proceedings of the board and appearance of any candidates or representatives, and it shall adequately designate each precinct recounted, the vote of each precinct according to the official canvass previously made, the nomination,

position, or question involved, and the correct vote of each precinct as determined by the recount.

(4) When the certificate relates to a recount for an office, nomination, position, or question voted upon in more than one (1) county or for judge of the district court a congressional office, a state or district office voted on in more than one county, a legislative office, or an office of judge of the district court or a ballot issue voted on in more than one county, the certificate shall be made in duplicate. One (1) copy shall be transmitted immediately to the secretary of state by certified or registered mail.

(5) (a) If the recount relates to an office, nomination, position, or question voted upon in only one (1) county, or part of a single county a county or district office voted for in only one county, other than judge of the district court, or a precinct office or a ballot issue voted on in only one county, the county recount board shall immediately recanvass the returns as corrected by the certificate showing the result of the recount and make a corrected abstract of the votes.

(b) If the corrected abstract shows no change in the result, no further action shall need be taken.

(c) If there is a change in the result, a new certificate of election or nomination shall be issued to each candidate found to be elected or nominated."

1 Section 50. Section 23-4121, R.C.H. 1947, is amended
2 to read as follows:

3 "23-4121. Procedure upon tie vote for state executive
4 officers — county officers other than county commissioner
5 — ~~township officers~~ — commissioners. (1) If there is a tie
6 vote for governor, and lieutenant governor, secretary of
7 state, attorney general, state auditor, ~~state treasurer,~~
8 clerk of the supreme court, superintendent of public
9 instruction, or any other state executive officer, the
10 legislative ~~assembly~~ legislature, at its next regular
11 session, shall elect a person to fill the office by joint
12 ballot of the two ~~(2)~~ houses.

13 (2) If there is a tie vote for clerk of the district
14 court, county attorney, or any county officer, except county
15 commissioner, ~~or for a township officer,~~ the commissioners
16 shall appoint an eligible person as in case of other
17 vacancies in the office.

18 (3) If there is a tie vote for commissioner, the
19 senior district judge shall appoint an eligible person to
20 fill the office as in other cases of vacancy.

21 (4) If there is a tie vote for state officers, the
22 secretary of state shall transmit a certified copy of the
23 statement to the legislative ~~assembly~~ legislature showing
24 the votes cast for the two ~~(2)~~ or more persons having an
25 equal and the highest number of votes."

1 Section 51. Section 23-4401, R.C.H. 1947, is amended
2 to read as follows:

3 "23-4401. Election of United States senators and
4 representatives — ~~for full term and to fill vacancies.~~ (1)
5 United States senators and representatives shall be elected
6 at the general election preceding commencement of the term
7 to be filled.

8 ~~(2) If a vacancy occurs for senator, or United States~~
9 ~~representative, an election to fill the vacancy shall be~~
10 ~~held at the next general election. If an election is invalid~~
11 ~~or not held at that time, the election shall be at the~~
12 ~~second succeeding general election.~~

13 ~~(2)(2)~~ Nominations and elections shall be as provided
14 by law for governor."

15 Section 52. Section 23-4402, R.C.H. 1947, is amended
16 to read as follows:

17 "23-4402. Write of election to fill vacancy Vacancy in
18 office of United States senator. (1) If a vacancy occurs in
19 the office of United States senator ~~or representative,~~ the
20 ~~governor shall issue a writ of election to fill the vacancy,~~
21 an election to fill the vacancy shall be held at the next
22 general election. If the election is invalid or not held at
23 that time, the election to fill the vacancy shall be held at
24 the next succeeding general election.

25 (2) The governor may make a temporary appointment to

1 fill the vacancy until the election."

2 Section 53. There is a new R.C.M. section that reads
3 as follows:

4 Vacancy in the office of United States representative.

5 (1) Whenever a vacancy occurs in the office of United States
6 representative, the governor shall immediately issue a writ
7 of election to fill the vacancy.

8 (2) The election to fill the vacancy shall be held
9 within 3 months from the time the vacancy occurs.

10 Section 54. Section 23-4737, R.C.M. 1947, is amended
11 to read as follows:

12 "23-4737. Payments in name of undisclosed principal.
13 No person shall pay make a payment of his own money or of
14 another ~~persons~~ person's money to any other person in
15 connection with a nomination or election in any other name
16 than that of the person who in truth supplies such money;
17 ~~nor shall any.~~ No person pay knowingly receive such payment,
18 or enter, or cause the same to be entered, in his accounts
19 or records in another name than that of the person by whom
20 it was actually furnished; provided, if the money ~~be is~~
21 received from the treasurer of any political ~~organization~~
22 ~~committee~~, it ~~shall be~~ is sufficient to enter the same as
23 received from ~~said the~~ treasurer."

24 Section 55. Section 23-4757, R.C.M. 1947, is amended
25 to read as follows:

1 "23-4757. Forfeiture of nomination or office for
2 violation of law, when not worked. ~~Where~~ If, upon the trial
3 of any action or proceeding under the provisions of ~~this act~~
4 ~~for the Title 23 or Title 37 to contest of~~ the right of any
5 person to be declared nominated or elected to any office, or
6 to annul or set aside such nomination or election, or to
7 remove a person from his office, it appears from the
8 evidence that the offense complained of was not committed by
9 the candidate, or with his knowledge or consent, or was
10 committed without his sanction or connivance, and that all
11 reasonable means for preventing the commission of such
12 offense at such election were taken by and on behalf of the
13 candidate; ~~as~~ if that the offense or offenses complained of
14 were trivial, unimportant, and limited in character, and
15 that in all other respects his participation in the election
16 was free from such offenses or illegal acts; or that any
17 act or omission of the candidate arose from inadvertence or
18 from accidental miscalculation, or from some other
19 reasonable cause of a like nature, and in any case did not
20 arise from any want of good faith; and under the
21 circumstances it seems to the court to be unjust that the
22 ~~said~~ candidate ~~shall~~ forfeit his nomination or office, or be
23 deprived of any office of which he is the incumbent, then
24 the nomination or election of ~~such the~~ candidate ~~shall is~~
25 not by reason of such offense or omission complained of be

1 void, nor ~~shall~~ may the candidate be removed from or
2 deprived of his office."

3 Section 56. Section 23-4758, R.C.M. 1947, is amended
4 to read as follows:

5 "23-4758. Punishment ~~for violation of act~~. If, upon
6 the trial of any action or proceeding under the provisions
7 of ~~this act, for the contesting of Title 23 or Title 37 to~~
8 ~~contest~~ the right of any person to be declared to be
9 nominated to an office, or elected to an office, or to annul
10 and set aside such election, or to remove any person from
11 his office, it ~~shall appear~~ appears that such person was
12 guilty of any corrupt practice, illegal act, or undue
13 influence, in or about such nomination or election, he shall
14 be punished by being deprived of the nomination or office,
15 as the case may be, and the vacancy therein shall be filled
16 in the manner provided by law. The only ~~exceptions~~ exceptions
17 to this judgment shall be ~~that those~~ provided in the
18 ~~preceding section of this act 23-4757~~. Such judgment ~~shall~~
19 does not prevent the candidate or officer from being
20 proceeded against by indictment or criminal information for
21 any such act or acts."

22 Section 57. Section 23-4759, R.C.M. 1947, is amended
23 to read as follows:

24 "23-4759. Time for commencing contest. Any action to
25 contest the right of any person to be declared elected to an

1 officer, or to annul and set aside such election, or to
2 remove from or deprive any person of an office of which he
3 is the incumbent, for any offense mentioned in ~~this act~~
4 Title 23 or Title 37, must, unless a different time be
5 stated, be commenced within ~~forty days~~ 1 year after the
6 return day of the election at which such offense was
7 committed, ~~unless the ground of the action or proceeding is~~
8 ~~for the illegal payment of money or other valuable thing~~
9 ~~subsequent to the filing of the statements prescribed by~~
10 ~~this act, in which case the action or proceeding may be~~
11 ~~commenced within forty days after the discovery by the~~
12 ~~complainant of such illegal payment. A contest of the~~
13 ~~nomination or office of governor or representative or~~
14 ~~senator in congress must be commenced within twenty days~~
15 ~~after the declaration of the result of the election, but~~
16 ~~this shall not be construed to apply to any contest before~~
17 ~~the legislative assembly."~~

18 Section 58. Section 23-4760, R.C.M. 1947, is amended
19 to read as follows:

20 "23-4760. Court having jurisdiction of proceedings. An
21 application for filing a statement, payment of a claim, or
22 correction of an error or false recital in a filed statement
23 filed, or an action or proceeding to annul and set aside the
24 election of any person declared elected to an office, or to
25 remove or deprive any person of his office for an offense

mentioned in ~~this act~~, Title 23 or Title 37 or any petition to excuse any person or candidate in accordance with the power of the court to excuse, as provided in ~~section~~ 23-4757, must be made or filed in the district court of the county in which the certificate of his nomination as a candidate for the office to which he is declared nominated or elected is filed, or in which the incumbent resides."

Section 59. Section 23-4763, R.C.H. 1947, is amended to read as follows:

"23-4763. Grounds for contest of nomination or office. ~~Any~~ An elector of the state, or of any political or municipal division thereof, may contest the right of any person to any nomination or office for which ~~such~~ the elector has the right to vote, for any of the following causes:

1. On ~~On~~ the ground of a deliberate, serious, and material violation of any ~~of the provisions of this act, or of any other~~ provision of the law relating to nominations or elections;

2. When ~~Whenever~~ the person whose right was is contested was not, at the time of the election, eligible to such office;

3. On ~~On~~ account of illegal votes or an erroneous or fraudulent count or canvass of votes."

Section 60. Section 23-4767, R.C.H. 1947, is amended

to read as follows:

"23-4767. Hearing of contest. The petitioner (contestant) and the contestee may appear and produce evidence at the hearing, but no person, other than the petitioner and contestee, ~~shall~~ may be made a party to the proceedings on such petition; and no person, other than ~~said~~ the parties and their attorneys, ~~shall~~ may be heard thereon, except by order of the court. If more than one petition is pending, or the election of more than one person is contested, the court may, in its discretion, order the cases to be heard together, and may apportion the costs, disbursements, and attorney's fees between them, and shall finally determine all questions of law and fact, save only that the judge may, in his discretion, impanel a jury to decide on questions of fact. ~~In the case of a contested nomination or election for Senator or Representative in the Legislative Assembly, or for Senator or Representative in Congress, the court shall forthwith certify its findings to the Secretary of State to be by him transmitted to the presiding officer of the body in question. In the case of other nominations or elections, other than for federal congressional offices, the court shall forthwith immediately~~ certify its decision to the board or official issuing certificates of nomination or election, ~~which and the~~ board or official shall thereupon issue certificates of nomination

1 or election to the person or persons entitled thereto by
 2 ~~seek the court's~~ decision. If judgment of ouster against a
 3 defendant ~~shall be~~ is rendered, ~~said judgment shall award~~
 4 ~~the nomination or office to the person receiving next the~~
 5 ~~highest number of votes, unless it shall be further~~
 6 ~~determined in the action, upon appropriate pleading and~~
 7 ~~proof by the defendant, that some act has been done or~~
 8 ~~committed which would have been ground in a similar action~~
 9 ~~against such person, had he received the highest number of~~
 10 ~~votes for such nomination or office, for a judgment of~~
 11 ~~ouster against him, and if it shall be so determined at the~~
 12 ~~trial, the nomination or office shall be by the judgment~~
 13 ~~declared vacant, except as provided in 23-4762, and shall~~
 14 ~~thereupon be filled by a new election, or by appointment, as~~
 15 ~~may be provided by law regarding vacancies in such~~
 16 ~~nomination or office."~~

17 Section 61. Section 23-4770, R.C.M. 1947, is amended
 18 to read as follows:

19 "23-4770. Advancement of cases — dismissal, ~~when~~ —
 20 privileges of witnesses. Proceedings under ~~this act~~ Title 23
 21 or Title 37 shall be advanced on the docket upon request of
 22 either party for speedy trial, but the court may postpone or
 23 continue ~~said the~~ trial if ~~the ends of justice say be~~
 24 ~~thereby more effectually secured necessary~~, and in case of
 25 such continuance or postponement, the court may impose costs

1 in its discretion as a condition thereof. No petition shall
 2 ~~may~~ be dismissed without the consent of the county attorney,
 3 unless the same shall ~~be~~ is dismissed by the court. No
 4 person shall ~~may~~ be excused from testifying or producing
 5 papers or documents on the ground that his testimony or the
 6 production of papers or documents will tend to criminate
 7 him; but no admission, evidence, or paper made or advanced
 8 or produced by such person shall ~~or any evidence that is the~~
 9 direct result of such evidence or information that he may
 10 have so given may be offered or used against him in any
 11 civil or criminal prosecution, ~~or any evidence that is the~~
 12 ~~direct result of such evidence or information that he may~~
 13 ~~have so given, except in a prosecution for perjury committed~~
 14 ~~in such testimony."~~

15 Section 62. Section 23-4785, R.C.M. 1947, is amended
 16 to read as follows:

17 "23-4785. ~~Commissioner~~ ~~how~~ ~~appointed,~~
 18 ~~qualifications, and offices~~ Creation of office. (1) There is
 19 ~~hereby created the position of a~~ commissioner of campaign
 20 finances and practices, who shall be appointed by a majority
 21 of a ~~four (4) member~~ four member selection committee which
 22 shall be comprised of the speaker of the house, the
 23 president of the senate, and the minority floor leaders of
 24 both houses of the Montana legislature. However, if a
 25 majority of the members of the selection committee cannot

1 agree upon the selection of a commissioner within ~~thirty~~
2 ~~(30)~~ days after the passage and approval of this act ~~a~~
3 ~~vacancy occurs or a term expires~~, the Montana supreme court
4 shall appoint a fifth public member to the selection
5 committee. The majority of the five ~~(5)~~ members of the
6 selection committee shall then select the commissioner.

7 (2) The individual selected to serve as the
8 commissioner of campaign finances and practices shall be
9 appointed for a ~~five (5) year~~ 5-year term, but he shall ~~is~~
10 thereafter be ineligible to serve as the commissioner of
11 campaign finances and practices and ~~shall be is~~ precluded
12 from being a candidate for public office as defined in this
13 act for a period of ~~five (5) years~~ from the time that his
14 term as commissioner expires.

15 (3) If for any reason a vacancy should occur in the
16 position of commissioner, a successor shall be appointed
17 within ~~thirty (30)~~ days as provided in subsection (1) to
18 serve out the unexpired term. An individual who is selected
19 to serve out the unexpired term of a preceding commissioner
20 ~~shall be is~~ entitled to be reappointed for a ~~five (5) year~~
21 5-year term as provided in subsection (1).

22 (4) The commissioner may be removed from office by
23 impeachment as provided in ~~sections 95-2801 and 95-2802,~~
24 ~~R.C.M. 1947.~~ He may also be prosecuted by the appropriate
25 county attorney for official misconduct as specified in

1 ~~section 94-7-401, R.C.M. 1947.~~

2 (5) The commissioner of campaign finances and
3 practices ~~shall receive is~~ entitled to an annual salary of
4 ~~twenty-one thousand dollars (\$21,000),~~ and the salary
5 commission may recommend salary increases to the
6 legislature.

7 (6) The office of the commissioner ~~shall be is~~
8 attached to the office of the secretary of state for
9 administrative purposes only, as specified in ~~section~~
10 ~~82A-108,~~ except that the provisions of subsections (1) (b),
11 (1) (c), (2) (a), (2) (b), (2) (d), (2) (e), and (3) (a) of
12 ~~section 82A-108, R.C.M. 1947,~~ do not apply."

13 Section 63. Section 23-4786, R.C.M. 1947, is amended
14 to read as follows:

15 "23-4786. Powers and duties of the commissioner. ~~The~~
16 ~~commissioner shall exercise the following powers and perform~~
17 ~~the following duties:~~

18 (1) The commissioner of campaign finances and
19 practices shall be responsible for investigating all of the
20 alleged violations of the election laws contained in Title
21 ~~23, R.C.M. 1947, or Title 37~~ and shall in conjunction with
22 the county attorneys, be responsible for enforcing all of
23 the state's election laws.

24 (2) The commissioner shall select an appropriate staff
25 to enforce the provisions of Title 23, ~~R.C.M. 1947 and Title~~

1 ~~37~~, and he shall have the power to pay hire and fire all
2 personnel under his supervision.

3 (3) The commissioner may hire or retain attorneys who
4 are properly licensed to practice before the supreme court
5 of the state of Montana to prosecute violations of Title 23,
6 ~~R.C.M. 1947~~ or Title 37. Any properly licensed attorney so
7 retained or hired shall exercise the powers of a special
8 attorney general, and he shall have the power to pay
9 prosecute, subject to the control and supervision of the
10 commissioner and the provisions of ~~section 23-4788~~, any
11 criminal or civil action arising out of a violation of any
12 provision of Title 23, ~~R.C.M. 1947~~ or Title 37. All
13 prosecutions shall be brought in the state district court
14 for the county in which a violation has occurred or in the
15 district court for Lewis and Clark County. The authority to
16 prosecute as prescribed by this section includes the
17 authority to:

18 (a) institute proceedings for the arrest of persons
19 charged with or reasonably suspected of criminal violations
20 of Title 23, ~~R.C.M. 1947~~ or Title 37;

21 (b) attend and give advice to a grand jury when cases
22 involving criminal violations of Title 23, ~~R.C.M. 1947~~, or
23 Title 37 are presented;

24 (c) draw and file indictments, informations, and
25 criminal complaints;

1 (d) prosecute all actions for the recovery of debts,
2 fines, penalties, ~~and or~~ forfeitures accruing to the state
3 or county from persons convicted of violating Title 23,
4 ~~R.C.M. 1947~~ or Title 37; and

5 (e) do any other act necessary to successfully
6 prosecute a violation of any provision of Title 23, ~~R.C.M.~~
7 ~~1947~~ or Title 37.

8 (4) The commissioner shall prescribe forms for
9 statements and other information required to be filed
10 pursuant to Title 23, ~~R.C.M. 1947~~, or Title 37 and furnish
11 forms and appropriate information to persons required to
12 file statements and information.

13 (5) The commissioner shall prepare and publish a
14 manual prescribing a uniform system for accounts for use by
15 persons required to file statements pursuant to Title 23,
16 ~~R.C.M. 1947~~ or Title 37.

17 (6) The commissioner shall accept and file any
18 information voluntarily supplied that exceeds the
19 requirements of Title 23, ~~R.C.M. 1947~~ or Title 37.

20 (7) The commissioner shall prescribe the manner in
21 which the county clerks and recorders shall receive, file,
22 collate, and maintain reports filed with them under Title
23 ~~23, R.C.M. 1947~~ or Title 37.

24 (8) The commissioner shall make statements and other
25 information filed with his office available for public

1 inspection and copying during regular office hours, and make
2 copying facilities available free of charge or at a charge
3 not to exceed actual cost.

4 (9) The commissioner shall preserve statements and
5 other information filed with his office for a period of ~~ten~~
6 ~~(10)~~ years from date of receipt.

7 (10) The commissioner shall prepare and publish
8 summaries of the statements received.

9 (11) The commissioner shall prepare and publish such
10 other reports as he ~~may deem~~ considers appropriate.

11 (12) The commissioner shall provide for wide public
12 dissemination of summaries and reports.

13 (13) The commissioner ~~shall have the authority to~~ may
14 investigate all statements filed pursuant to the provisions
15 of Title 23, ~~R.C.M. 1947,~~ or Title 37 and shall also
16 investigate alleged failures to file any statement or the
17 alleged falsification of any statement filed pursuant to the
18 provisions of Title 23, ~~R.C.M. 1947~~ or Title 37. Upon the
19 submission of a written complaint by any individual, the
20 commissioner shall also investigate any other alleged
21 violation of the provisions of Title 23, ~~R.C.M. 1947,~~ or
22 Title 37 or any rule ~~or regulation~~ adopted pursuant thereto.

23 (14) The commissioner shall promulgate and publish
24 rules ~~and regulations~~ to carry out the provisions of Title
25 23, ~~R.C.M. 1947,~~ or Title 37 and shall promulgate such rules

1 in conformance with the Montana Administrative Procedure
2 Act.

3 (15) The commissioner shall at the close of each fiscal
4 year report to the legislature and the governor concerning
5 the action he has taken, including the names, salaries, and
6 duties of all individuals in his employ and the money he has
7 disbursed. The commissioner shall also make further reports
8 on the matters within his jurisdiction as the legislature
9 may prescribe and shall also make recommendations for
10 further legislation as may appear desirable.

11 (16) The commissioner shall be responsible for
12 preparing, administering, and allocating the budget for his
13 office.

14 (17) The commissioner ~~shall have the power to~~ may
15 inspect any records, accounts, or books that must be kept
16 pursuant to the provisions of Title 23, ~~R.C.M. 1947~~ or Title
17 37, which are held by any political committee or candidate
18 so long as such inspection is made during reasonable office
19 hours.

20 (18) The commissioner ~~shall have the power to~~ may issue
21 orders of noncompliance as prescribed by ~~section~~ 23-4787.

22 (19) The commissioner ~~shall~~ may exercise all of the
23 powers conferred upon him by ~~this act or any other provision~~
24 ~~of state law~~ in any jurisdiction or political subdivision of
25 the state.

(20) After receiving the final campaign contribution and expenditure report filed as required by Title 23, ~~R.C.M. 1947~~, the commissioner shall inform the secretary of state, or the city or county clerk and recorder that each candidate who has been properly elected to any public office has filed his final contribution and expenditure report as specified in ~~section 23-4778~~.

(21) The commissioner ~~shall have the authority to~~ may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, bank account statements of a political committee or candidate, or other records which are relevant or material for the purpose of conducting any investigation pursuant to the provisions of Title 23, ~~R.C.M. 1947~~ or Title 37."

Section 64. Section 23-4787, R.C.M. 1947, is amended to read as follows:

"23-4787. ~~Examination~~ Inspection of statements and issuance of orders of noncompliance. (1) Each statement filed with the commissioner during an election or within ~~sixty~~ sixty ~~60~~ days thereafter shall be inspected within ~~ten~~ ten ~~10~~ days after the date upon which the statement is filed. If a person has not satisfied the provisions of Title 23, ~~R.C.M. 1947~~, or Title 37, the commissioner shall immediately notify ~~a~~ the person of the noncompliance. Such an order of

noncompliance shall be issued when:

(a) upon examination of the official ballot, it appears that the person has failed to file a statement as required by law or that a statement filed by a person does not conform to law; or

(b) it is determined that a statement filed with the commissioner does not conform to the requirements of Title 23, ~~R.C.M. 1947~~ or Title 37, or that a person has failed to file a statement required by law.

(2) If an order of noncompliance is issued during a campaign period, or within ~~sixty~~ sixty ~~60~~ days after an election, a candidate or political committee shall submit the necessary information within five ~~five~~ 5 days after receiving the notice of noncompliance. Upon a failure to submit the required information within the time specified, the appropriate county attorney or the commissioner ~~shall have the authority to~~ may initiate a civil or criminal action pursuant to the procedures outlined in ~~section 23-4788~~.

(3) If an order of noncompliance is issued during any other period than that described in subsection (2), a candidate or political committee shall submit the necessary information within ~~ten~~ ten ~~10~~ days after receiving the notice of noncompliance. Upon a failure to submit the required information within the time specified, the appropriate

1 county attorney or the commissioner shall initiate a civil
2 or criminal action pursuant to the procedures outlined in
3 ~~section~~ 23-4788.

4 (4) A candidate or political treasurer aggrieved by
5 the issuance of an order of noncompliance may seek judicial
6 review in the district court of the county in which the
7 candidate resides or the county in which the political
8 committee has its headquarters. All petitions for judicial
9 review filed pursuant to this ~~act~~ section shall be
10 expeditiously reviewed by the appropriate district court.

11 (5) Within ~~one hundred twenty~~ (120) days after the
12 date of each election, the commissioner shall examine and
13 compare each statement or report filed with the commissioner
14 pursuant to the provisions of Title 23, ~~R.C.S. 1947, or~~
15 Title 37 to determine whether a statement or report conforms
16 to the provisions of the law. The examination shall include
17 a comparison of all reports and statements received by the
18 commissioner pursuant to the requirements of Title 23,
19 ~~R.C.S. 1947 or Title 37~~. The commissioner may investigate
20 the source and authenticity of any contribution or
21 expenditure listed in any report or statement filed pursuant
22 to Title 23, ~~R.C.S. 1947, or Title 37~~ or the alleged failure
23 to report any contribution or expenditure required to be
24 reported pursuant to Title 23, ~~R.C.S. 1947 or Title 37~~."

25 Section 65. Section 23-4788, R.C.S. 1947, is amended

1 to read as follows:

2 "23-4788. ~~Prosecutions and powers of the~~ Consultation
3 and cooperation with county attorney. (1) ~~When~~ Whenever the
4 commissioner determines that there appears to be sufficient
5 evidence to justify a civil or criminal prosecution ~~as~~
6 ~~specified in section 23-4793~~, he shall notify the county
7 attorney of the county in which the alleged violation
8 occurred and shall arrange to transmit to the county
9 attorney all information relevant to the alleged violation.

10 If the county attorney fails to initiate the appropriate
11 civil or criminal action within ~~thirty~~ (30) days after he
12 receives notification of the alleged violation, the
13 commissioner may then initiate the appropriate legal action.

14 (2) A county attorney may at any time prior to the
15 expiration of the ~~thirty~~ (30) ~~day~~ 30-day time period
16 specified in subsection (1), waive his right to prosecute
17 and thereby authorize the commissioner to initiate the
18 appropriate civil or criminal action ~~as specified in~~
19 ~~section 23-4793~~.

20 (3) The provisions of subsection (1) do not apply to a
21 situation in which the alleged violation has been committed
22 by the county attorney of a county. In this instance, the
23 commissioner is authorized to directly prosecute any alleged
24 violation of Title 23, ~~R.C.S. 1947 or Title 37~~.

25 (4) If a prosecution is undertaken by the

commissioner, all court costs associated with the prosecution shall be paid by the state of Montana, and all fines and forfeitures imposed pursuant to a prosecution by the commissioner shall be deposited in the state general fund.

(5) Nothing in this act ~~shall prevent~~ prevents a county attorney from inspecting any records, accounts, or books which must be kept pursuant to the provisions of Title 23, ~~R.C.M. 1947, or Title 37~~ that are held by any political committee or candidate involved in an election to be held within the county. However, such inspections must be conducted during reasonable office hours.

(6) A county attorney ~~shall have the authority to~~ may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, correspondence, memoranda, bank account statements of a political committee or candidate, or other records which are relevant or material for the purpose of conducting any investigation pursuant to the provisions of Title 23, ~~R.C.M. 1947 or Title 37.~~"

Section 66. Section 23-4789, R.C.M. 1947, is amended to read as follows:

"23-4789. Right to inspect current accounts and reports. Every individual shall have the right to inspect any report or current account that must be kept or filed

pursuant to the provisions of Title 23, ~~R.C.M. 1947 or Title 37~~, but only if such inspection will occur during reasonable office hours and in such a manner that normal office functions will not be unnecessarily interrupted.

Section 67. Section 23-4794, R.C.M. 1947, is amended to read as follows:

"23-4794. Secretary of state ~~must~~ to furnish copies of ~~this act~~ certain election laws to appropriate officials. The secretary of state shall, at the expense of the state, furnish the county clerk, and the city and town clerks, with copies of ~~Title 23, chapter 47, R.C.M. 1947 the election laws relating to penalties, campaign practices, campaign finances, and contests.~~ The public official with whom a candidate files a declaration or certificate of nomination shall transmit ~~a copy of Title 23, chapter 47, R.C.M. 1947,~~ one of these copies to the candidate. Such copies shall also be furnished to any other person required to file a statement. Upon his own information, or at the written request of any voter, the secretary of state shall provide a copy of ~~Title 23, chapter 47, R.C.M. 1947,~~ to any other individual who may be a candidate, or who may otherwise be required to make a statement required by ~~this act~~ Title 23 or Title 37."

Section 68. Section 23-4795, R.C.M. 1947, is amended to read as follows:

"23-4795. Limitation on contributions. (1) Aggregate contributions for all elections in a campaign by an individual, ~~other than the candidate,~~ to a candidate and political committees organized on his behalf ~~other than the candidate and his immediate family~~ are limited as follows:

(a) for candidates filed jointly for the office of governor and lieutenant governor, not to exceed ~~fifteen hundred dollars~~ ~~(\$1,500);~~

(b) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed ~~seven hundred fifty dollars~~ ~~(\$750);~~

(c) for a candidate for public service ~~commissioner~~ ~~commissioner~~, not to exceed ~~four hundred dollars~~ ~~(\$400);~~

(d) for a candidate for district court judge, not to exceed ~~three hundred dollars~~ ~~(\$300);~~

(e) for a candidate for the legislature, not to exceed ~~two hundred fifty dollars~~ ~~(\$250);~~ and

(f) for a candidate for city or county office, not to exceed ~~two hundred dollars~~ ~~(\$200).~~

(2) An independent committee means a committee which is not organized on behalf of a candidate or which is not controlled either directly or indirectly by a candidate or candidate's committee, and which does not act jointly with a candidate or candidate's committee in conjunction with the

making of expenditures or accepting contributions. For the purpose of limitation on contributions, political party organizations are independent committees. Aggregate contributions by an independent committee to a candidate and political committees organized on his behalf for all elections in a campaign are limited as follows:

(a) for candidates filed jointly for the offices of governor and lieutenant governor, not to exceed ~~eight thousand dollars~~ ~~(\$8,000);~~

(b) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed ~~two thousand dollars~~ ~~(\$2,000);~~

(c) for a candidate for public service commissioner, not to exceed ~~one thousand dollars~~ ~~(\$1,000);~~

(d) for a candidate for district court judge, not to exceed ~~two hundred fifty dollars~~ ~~(\$250);~~

(e) for a candidate for the legislature, not to exceed ~~two hundred fifty dollars~~ ~~(\$250);~~

(f) for a candidate for city or county office, not to exceed ~~two hundred dollars~~ ~~(\$200).~~

~~(3) (a) Aggregate contributions by a candidate and his immediate family to his own candidacy and committees organized on his behalf are limited for all elections in a campaign as follows:~~

~~(i) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed six thousand dollars (\$6,000);~~

~~(ii) for candidates filed jointly for the offices of governor and lieutenant governor, not to exceed nine thousand dollars (\$9,000) to both candidates combined;~~

~~(iii) for a candidate for state district office, including but not limited to candidates for the state senate, public service commission and district court judge, not to exceed one thousand dollars (\$1,000) in all elections in a campaign;~~

~~(iv) for candidates for the state house of representatives not to exceed five hundred dollars (\$500) in all elections in a campaign; and~~

~~(v) for a candidate for city or county office, not to exceed three hundred dollars (\$300) in all elections in a campaign.~~

~~(b) As used in this section, a candidate's immediate family means the candidate's spouse, and the ascendants, descendants, brothers and sisters of the candidate and his spouse, and their spouses.~~

~~(4) (3)~~ The limitations imposed by this section do not apply to public funds contributed to a candidate under any public financing provision of this code."

Section 69. Section 37-101, R.C.M. 1947, is amended to read as follows:

"37-101. Form of petition for referendum. The following shall be substantially the form of petition for the referendum to the people on any act passed by the legislative assembly legislature of the state of Montana:

~~Warning.~~ WARNING

Any person signing any name other than his own to this petition, or signing the same more than once for the same measure at one election, or who is not, at the time of signing the same, a qualified elector of this state, is punishable by a fine of not exceeding ~~five hundred dollars (\$500), or imprisonment in the penitentiary not exceeding two years, or by both such fine and imprisonment~~ county jail for a term not to exceed 6 months, or both, or imprisonment in the state prison for a term not to exceed 10 years.

Petition for referendum.

To the Honorable, Secretary of State of the state of Montana:

We, the undersigned citizens and qualified electors of the state of Montana, respectfully order that Senate (House) Bill Number, entitled (title of act), passed by the ~~legislative assembly~~ legislature of the state of Montana, at the regular (special) session of ~~said legislative assembly, shall the legislature~~ be referred to

1 the people of the state for their approval or rejection, at
 2 the ~~regular~~, general, or special election to be held on the
 3 day of, 19.., and each for himself says: I have
 4 personally signed this petition; I am a qualified elector of
 5 the state of Montana; and my residence, post-office address,
 6 legislative representative district number, and voting
 7 precinct are correctly written after my name.

8 Name Residence
 9 Post-office address
 10 If in city, street and number
 11 Legislative representative district number
 12 Voting precinct

13 (Here follow numbered lines for signatures.)"

14 Section 70. Section 37-102, R.C.M. 1947, is amended to
 15 read as follows:

16 "37-102. Form of petition for initiative. (1) The
 17 following shall be substantially the form of petition for
 18 any law of the state of Montana proposed by the initiative:

19 ~~Warning.~~ **WARNING**

20 Any person signing any name other than his own to this
 21 petition, or signing the same more than once for the same
 22 measure at one election, or who is not, at the time of
 23 signing the same, a qualified elector of this state, is
 24 punishable by a fine not exceeding ~~five hundred dollars~~
 25 ~~(\$500)~~, or imprisonment in the penitentiary not exceeding

1 ~~two years, or by both such fine and imprisonment~~ county jail
 2 for a term not to exceed 6 months, or both, or imprisonment
 3 in the state prison for a term not to exceed 10 years.

4 Petition for Initiative.

5 To the Honorable, Secretary of State of the ~~State~~
 6 state of Montana:

7 We, the undersigned qualified electors of the state of
 8 Montana, respectfully demand that the following proposed law
 9 shall be submitted to the qualified electors of the state of
 10 Montana, for their approval or rejection, at the ~~regular~~,
 11 general, or special election to be held on the day of
 12, 19.., and each for himself says:

13 I have personally signed this petition, and my
 14 residence, post-office address, legislative representative
 15 district, and voting precinct are correctly written after my
 16 name.

17 Name Residence.....
 18 Post-office address.....
 19 If in city, street and number.....
 20 Legislative representative district.....
 21 Voting precinct.....

22 (Numbered lines for names on each sheet.)

23 (2) Every ~~such~~ sheet for petitioner's signature shall
 24 be attached to a full and correct copy of the title and text
 25 of the measure so proposed by initiative petition; but ~~such~~

1 the petition may be filed with the secretary of state in
2 numbered sections, for convenience in handling, and
3 referendum petitions may be filed in sections in like
4 manner."

5 Section 71. Section 37-201, R.C.M. 1947, is amended to
6 read as follows:

7 "37-201. Form for people's initiative petition on the
8 question of calling a constitutional convention. The
9 following shall be substantially the form for the people's
10 initiative petition on the question of calling a
11 constitutional convention:

12 WARNING

13 Any person signing any name other than his own to this
14 petition, or signing the same more than once for the same
15 measure at one election, or who is not, at the time of
16 signing the same, a qualified elector of this state, is
17 punishable by a fine not exceeding ~~five hundred dollars~~
18 ~~{ \$500 }, or imprisonment in the penitentiary not exceeding~~
19 ~~two (2) years, or by both. (Section 37-109, Revised Codes of~~
20 ~~Montana, 1947) county jail for a term not to exceed 6~~
21 ~~months, or both, or imprisonment in the state prison for a~~
22 ~~term not to exceed 10 years.~~

23 PEOPLE'S INITIATIVE PETITION

24 ON THE QUESTION OF CALLING

25 A CONSTITUTIONAL CONVENTION

1 To the Honorable, Secretary of State of the state
2 of Montana:

3 We, the undersigned qualified electors of the state of
4 Montana, respectfully request that the question of whether
5 there shall be an unlimited convention to revise, alter, or
6 amend the constitution be submitted to the qualified
7 electors of the state of Montana for their approval or
8 rejection at the general election to be held on the day
9 of, 19.., and each qualified elector says for himself:

10 I have personally signed this petition, and my
11 residence, ~~post-office~~ post-office address, and voting
12 precinct are correctly written after my name.

13 Name Residence
14 ~~Post-Office~~ Post-office Address
15 If in city, street and number
16 Voting precinct Representative Dist. NO.
17 (Each sheet shall be in substantially the form above and
18 contain numbered lines for names.)"

19 Section 72. Section 37-202, R.C.M. 1947, is amended to
20 read as follows:

21 "37-202. Form for people's initiative petition for
22 constitutional amendment. The following shall be
23 substantially the form for people's initiative petition for
24 constitutional amendment:

25 WARNING

Any person signing any name other than his own to this petition, or signing the same more than once for the same measure at one election, or who is not, at the time of signing the same, a qualified elector of this state, is punishable by a fine not exceeding ~~five hundred dollars (\$500)~~, or imprisonment in the ~~penitentiary not exceeding two (2) years, or by both. (Section 37-103, Revised Codes of Montana, 1947)~~ county jail for a term not to exceed 6 months, or both, or imprisonment in the state prison for a term not to exceed 10 years.

PEOPLE'S INITIATIVE PETITION
FOR CONSTITUTIONAL AMENDMENT

To the Honorable, Secretary of State of the state of Montana:

We, the undersigned qualified electors of the state of Montana, respectfully request that the following proposed constitutional amendment ~~shall~~ be submitted to the qualified electors of the state of Montana, for their approval or rejection, at the statewide election to be held on the day of, 19.., and each qualified elector says for himself:

I have personally signed this petition, and my residence, ~~post-office~~ post-office address, and voting precinct are correctly written after my name.

Name Residence

~~Post-Office~~ Post-office Address
If in city, street and number
Voting precinct Representative Dist. No.
(Each sheet for petitioner's signature shall be in substantially the form above and contain numbered lines for names. A full and correct copy of the title and text of the proposed constitutional amendment shall be included in or attached to each sheet of the petition.)"

Section 73. Section 37-103, R.C.M. 1947, is amended to read as follows:

"37-103. County clerk to verify signatures. (1) The county clerk of each county in which any ~~such~~ petition for initiative or referendum ~~shall be~~ is signed shall compare the signatures of the electors signing the same with their signatures on the registration books and blanks on file in his office, for the preceding general election, and shall thereupon attach to the sheets of ~~said~~ the petition containing ~~such~~ the signatures his certificate to the secretary of state, substantially as follows:

State of Montana, County of

To the Honorable, Secretary of State for Montana:

I,, county clerk of the county of, hereby certify that I have compared the signatures on (number of sheets) of the referendum (initiative) petition, attached hereto, with the signatures of said electors as they appear

1 on the registration books and blanks in my office; and I
 2 believe that the signatures of (names of signers), numbering
 3 (number of genuine signatures in each whole or partial
 4 legislative representative district lying within the county
 5 boundaries), are genuine. As to the remainder of the
 6 signatures thereon, I believe that they are not genuine, for
 7 the reason that, and I further certify that the
 8 following names (....) do not appear on the registration
 9 books and blanks in my office certify that the signatures of
 10 (number) signers are genuine and are marked thus on
 11 the petition and I further certify that
 12 (number) signers marked thus on the petition
 13 do not appear on the registration books and
 14 blanks in my office.

15 Signed:

16, County Clerk.

17 (Seal of Office) By

18 Deputy

19 (2) Every such Each certificate shall be is prima
 20 facie evidence of the facts stated therein, and of the
 21 qualifications of the electors whose signatures are thus
 22 certified to be genuine, and the secretary of state shall
 23 consider and count only such those signatures on such the
 24 petitions as shall be are so certified by said the county
 25 clerks to be genuine, provided, that the The secretary of

1 state may consider and count such of the remaining
 2 signatures as may be proved to be genuine, and that whenever
 3 the parties so signing were legally qualified to sign such
 4 petitions, and but the official certificate of a notary
 5 public of the county in which the signer resides shall be is
 6 required as to the fact for each of such the last-named
 7 signatures, and the The secretary of state shall further
 8 compare and verify the official signatures and seals of all
 9 notaries so certifying with their signatures and seals filed
 10 in his office. Such notaries' certificate shall be
 11 substantially in the following form:

12 State of Montana, ss.

13 County of

14 I,, a duly qualified and acting notary public in
 15 and for the above-named county and state, do hereby certify:
 16 that I am personally acquainted with each of the following
 17 named electors whose signatures are affixed to the annexed
 18 petition, and I know of my own knowledge that they are
 19 qualified electors of the state of Montana, and of the
 20 county, legislative representative districts, and precincts
 21 written after their several names in the annexed petition,
 22 and that their residence and post-office address is
 23 correctly stated therein, to wit: (Names of such electors.)

24 In Testimony Whereof, I have hereunto set my hand and
 25 official seal this day of, 19...

Notary Public, in and for County,
State of Montana.

[3] The county clerk ~~shall~~ may not retain in his possession any such petition, or any part thereof, for a longer period than ~~two~~ 2 days for the first ~~two hundred~~ 200 signatures thereon, and ~~one~~ 1 additional day for each ~~two hundred~~ 200 additional signatures, or fraction thereof, on the sheets presented to him, and at the expiration of such time he shall forward the same to the secretary of state, with his certificate attached thereto, as above provided. The forms herein given are not mandatory, and if substantially followed in any petition, ~~it shall~~ will be sufficient, disregarding clerical and ~~merely~~ technical errors."

Section 74. Section 37-104.1, R.C.M. 1947, is amended to read as follows:

"37-104.1. ~~Attorney general's summary of referred or initiative measures statement by secretary of state for referendum measures placement on ballot~~ Statements by attorney general and secretary of state. The secretary of state ~~of the state of Montana~~ prior to certifying and numbering of a referendum, initiative, or constitutional amendment to the several counties of Montana as provided by ~~sections 37-105 and 22-1402 [22-2506] of the Revised Codes of Montana, 1947,~~ shall transmit a copy of the measure to be

voted upon to the attorney general ~~of Montana~~. Within ~~ten~~ 10 days after the measure is filed with him, the attorney general shall provide and return to the secretary of state a statement in ordinary plain language explaining in not more than ~~one hundred~~ 100 words the general purpose of the measure submitted. In the case of referendum measures, the secretary of state shall prepare a statement setting forth the vote by which the referendum passed each house of the ~~legislative assembly~~ legislature. The statement by the secretary of state shall precede the attorney general's statement on the printed form. The statement as prepared by the attorney general, and the statement of the secretary of state for referendum measures only, shall be in addition to the legislative title of the measure, On the printing of the ballot the statement of the secretary of state for referendum measures only and the statement of the attorney general shall precede the other title of the measure. In providing the statement, the attorney general shall give a true and impartial statement of the purpose of the measure in plain, easily understood language and in such manner as ~~shall is~~ is not be an argument or likely to create prejudice either for or against the measure."

Section 75. There is a new R.C.M. section that reads as follows:

Informational pamphlets. (1) Whenever a ballot issue is

1 to be submitted to the people, the secretary of state shall
2 have printed pamphlets containing the information specified
3 in 37-107.

4 (2) Whenever more than one ballot issue is to be voted
5 on at a single election, the secretary of state may publish
6 a single pamphlet for all of the ballot issues.

7 (3) The pamphlets are to be distributed as provided in
8 37-107.

9 Section 76. Section 37-107, R.C.H. 1947, is amended to
10 read as follows:

11 "~~37-107. Printing and distribution of measures~~
12 Preparation of pamphlets. (1) The secretary of state shall
13 furnish ~~to the department of administration~~ a copy of each
14 of the proposed measures to be submitted to the people, and
15 ~~make requisition on the department of administration~~ for
16 the printing and delivery to him of pamphlets for all
17 proposed constitutional amendments, initiative, and
18 referendum measures to be submitted to a vote of the people.

19 (2) The department of administration, shall, no later
20 than ~~five~~ (5) weeks before any general or special election,
21 at which any proposed law is to be submitted to the people,
22 have printed a true copy of the title and text of each
23 measure to be submitted, with the number and form in which
24 the question will be printed on the official ballot. The
25 department ~~of administration~~ shall call for bids and

1 contract with the lowest responsible bidder for the printing
2 of pamphlets containing the proposed law to be submitted to
3 the people.

4 (3) The proposed law to be submitted shall be printed
5 and forwarded to the county clerk and recorder of each
6 county.

7 (4) The number of ~~proposed measures~~ pamphlets to be
8 printed shall be at least ~~five per cent~~ (5%) more than the
9 number of qualified electors, as shown by the registration
10 lists of the several counties of the state at the last
11 preceding general election.

12 (5) The information to be printed shall be printed in
13 the following order as applicable:

- 14 (a) the statement of the secretary of state;
- 15 (b) the statement of the attorney general;
- 16 (c) the title and body of the proposed measure;

17 (d) the exact text of the constitutional provision to
18 be revised;

19 ~~(d)~~ (e) the manner in which the measure will appear on
20 the ballot;

21 ~~(e)~~ (f) the argument advocating approval of the
22 measure;

23 ~~(f)~~ (g) the argument advocating rejection of the
24 measure;

25 ~~(g)~~ (h) the argument rebutting the argument advocating

1 approval; and

2 ~~(b)~~ (i) the argument rebutting the argument advocating
3 rejection.

4 (6) The secretary of state shall distribute to each
5 county clerk, no later than ~~four~~ (4) weeks before the
6 election at which the proposed measure(s) will be voted
7 upon, a sufficient number of pamphlets to furnish one copy
8 to every voter in his county. Each county clerk shall mail
9 to each registered voter in the county at least one copy of
10 the pamphlet within ~~two~~ (2) weeks from the date of his
11 receipt of the pamphlets from the secretary of state."

12 Section 77. Severability. If a part of this act is
13 invalid, all valid parts that are severable from the invalid
14 part remain in effect. If a part of this act is invalid in
15 one or more of its applications, the part remains in effect
16 in all valid applications that are severable from the
17 invalid applications.

18 Section 78. Repealer. Sections 23-3021, 23-3030, and
19 23-4404, R.C.M. 1947, are repealed.

-End-

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 25, 1977

The meeting of this committee was called to order by Senator Turnage, Chairman, on the above date at 9:35 a.m. in Room 442 of the State Capitol Building.

ROLL CALL:

All members of the committee were present except Senators Roberts and Warden who were excused.

WITNESSES PRESENT TO TESTIFY:

Dave Cogley - office of the Code Commissioner, Legislative Council
Bob Pyfer - office of the Code Commissioner, Legislative Council

CONSIDERATION OF HOUSE BILL 22:

Dave Cogley of the Code Commissioner's office explained the changes made in this recodification bill. He told the committee that the abortion act of 1974 is in conflict with this section of the law and that, therefore, this bill makes it so that the section now only applies to sterilization.

DISPOSITION OF HOUSE BILL 22:

Senator Olson moved that H.B. 22 BE CONCURRED IN. The motion carried unanimously.

CONSIDERATION OF HOUSE BILL 39:

Dave Cogley also explained this recodification bill and went over the changes that had been made for the committee.

DISPOSITION OF HOUSE BILL 39:

Senator Towe moved to amend page 29, section 23, line 24, by striking "subsection (1), (2), (3), or (4) of this section" and inserting "this subsection (1)". The motion carried unanimously. He then moved that H.B. 39 as amended BE CONCURRED IN. This motion carried unanimously also.

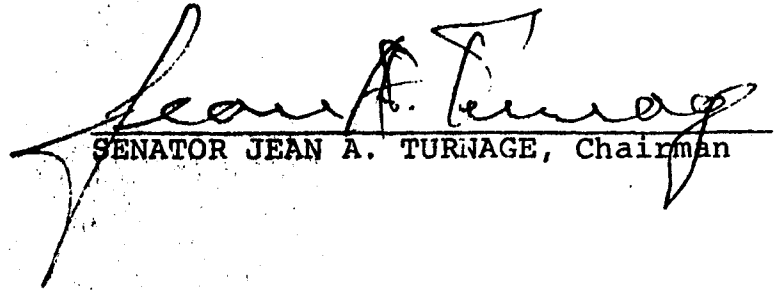
CONSIDERATION OF HOUSE BILL 27:

Bob Pyfer of the office of Code Commissioner with the Legislative Council explained the changes that had been made in this recodification bill.

DISPOSITION OF HOUSE BILL 27:

Senator Towe moved to strike the reference to "93-4336 and 93-5811" in the title and section 19, line 11, and that H.B. 27 as so amended BE CONCURRED IN. The motion carried unanimously.

There being no further business at this time, the committee adjourned at 10:50 a.m..


SENATOR JEAN A. TURNAGE, Chairman

John Doe
VISITOR'S REGISTER

VISITORS' REGISTER

DATE 5/2/54

4 BIL ~~20/2/54~~

Please note bill no.

(check one)

[illegible]

JUDICIARY COMMITTEE

March 22, 1977

The regular meeting of the House Judiciary Committee was called to order by Chairman Scully at 8:00 a.m. in room 436 of the Capitol Building, Helena, Montana. All members were present with the exception of Representatives Colburn, Conroy, Courtney, Kennerly and Seifert.

SCHEDULED FOR HEARING WERE SENATE BILLS 27 and 385 and HOUSE JOINT RESOLUTION #93.

The hearing opened on Senate Bill 385:

SENATE BILL #385:

SENATOR THOMAS, DISTRICT #20:

This bill will revise the law regarding eligibility for parole and merger of sentences when a second crime is committed while in prison or on parole or furlough. The rights for parole eligibility is from 1/4 to 1/2. The purpose is to try to take the intent, as set forth in the codes, so the parole board can work with the offender who is a threat to society. He went on to explain in more detail how this would be done. Judge Shamprom intended to be here and was unable to make it. He is the head of the trial judges.

JACK LYNCH, EXECUTIVE SECRETARY FOR BOARD OF PARDONS:

I am heartily in support of this bill. It would give the parole board a great deal of authority. I feel this measure is good legislation.

HANK BURGESS, BOARD OF PARDONS:

I think it will do the many things that have been problem areas, that have been mentioned. I have always felt that a higher penalty should be available for the offender who is back several times. I am very strongly in favor of this legislation. I think it will solve the problem of the feeling that the violent offenders are sometimes paroled when they shouldn't be. He went on to talk in this same vein and explain in more detail the intent of the bill.

TOM DOWLING, SHERIFFS AND PEACE OFFICERS:

There are a number of offenders who are multiple offenders. Under the old system the longest we could give them was 50 years. I think this bill will solve a lot of our problems. I support it.

TOM HONZEL, COUNTY ATTORNEYS:

We support this bill for reasons that have already been stated.

SENATOR THOMAS:

The fiscal note had quite a bit of work done on it. There were two fiscal notes. This is the latest one. The fixed cost of operating the prison is the major portion of the total per diem cost. Small variations in population could be absorbed without increases in facilities or personnel. It is a kind of common-sense approach to a very difficult problem.

March 22, 1977
Page 2

The question was asked if there no longer existed the multiple offender act. Senator Thomas stated that yes, it has been repealed.

REPRESENTATIVE DUSSAULT asked for the definition of the non-dangerous offender. There was general discussion about this definition.

MR BURGER:

We went to several sources to find this definition. We wanted the best definition. One source he mentioned was the American Correctional Association Handbook. He said this was an excellent definition.

There were no further questions, so the hearing closed on Senate Bill 385.

SENATE BILL #27:

SENATOR BLAYLOCK, chief sponsor of the bill did not attend the hearing, so Larry Weinberg stated he would explain the bill.

LARRY WEINBERG, LEGISLATIVE COUNSEL:

There are some amendments we wish to have put in the bill. One is on page 11, lines 23 and 24. He discussed the senate amendments and then went on to discuss the voting privilege. He stated that if you are out on parole your right to vote is reinstated.

There was discussion about the rights that are in the constitution, pertaining to the convicted felon. The right to vote is triggered by the release from prison. He mentioned the committee should look at the election laws.

JOAN WOODGERD, SECRETARY OF STATE OFFICE:

I have some proposed amendements, on page 36, line 10, change columns back to categories. With the size of elections getting bigger, it is no longer possible to put only three columns anymore. On page 94, section 75, this is a new R.C.M. section that would go into title 97. It was an attempt to straighten out a problem in the old law. If the Senate Bill 403 passes it will repeal this section. I would suggest you delete all of section 75, on page 94 and 95, if SB 403 passes. 403 would repeal all of the sections.

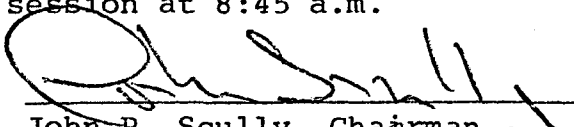
Discussion followed about repealing the law and amending the law.

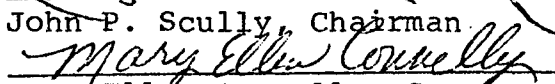
After general discussion and some questions, the hearing closed on Senate Bill 27.

HOUSE JOINT RESOLUTION #93:

REPRESENTATIVE DUSSAULT commented that this was merely a method of drawing attention to the observance of law day. May 1st is already established as law day and the general feeling of the committee was that it was not needed.

The committee went into executive session at 8:45 a.m.


John P. Scully, Chairman


Mary Ellen Connelley

JUDICIARY COMMITTEE
EXECUTIVE SESSION

March 22, 1977

The executive session of the House Judiciary Committee was called to order by Chairman Scully at 8:45 a.m. in room 436 of the Capitol Building, Helena, Montana. All members were present except the following: Representatives Colburn, Conroy, Courtney, Kennerly and Seifert.

HOUSE JOINT RESOLUTION #93:

REPRESENTATIVE LORY moved "do not pass". REPRESENTATIVE DUSSAULT moved a sub-stitute motion "do pass". The motion was tied with the bill going out of committee with no recommendation.

SENATE BILL #33:

REPRESENTATIVE LORY reported from the sub-committee that the bill be concurred in, and moved the motion. The motion carried with the vote unanimous.

SENATE BILL #37:

REPRESENTATIVE RAMIREZ reported he did not have the amendments ready for presentation to the committee. He will have them Friday.

SENATE BILL #34:

REPRESENTATIVE LORY moved that the sub-committee report of "be concurred in" be adopted. The motion carried with the vote unanimous.

SENATE BILL #53:

REPRESENTATIVE KEYSER moved to amend. The amendments as proposed were voted upon and the motion carried with vote unanimous. REPRESENTATIVE LORY moved "be concurred in as amended". The motion carried with the vote unanimous. (amendments attached)

SENATE BILL #216:

REPRESENTATIVE DAY reported the water sub-committee had voted to table this bill. The Judiciary Committee accepted the committee report to table and the motion carried with the vote unanimous.

SENATE BILLS #413 and 419:

These bills are still in sub-committee for work and study. The committee will report on Friday.

SENATE BILL #385:

REPRESENTATIVE KEYSER moved be concurred in. The motion carried with the vote unanimous.

REPRESENTATIVE HOLMES came in late to committee and moved the committee reconsider its action on Senate Bill #385. The motion failed with only one yes vote. Representative Holmes asked that she be recorded as a no vote on this bill.

SENATE BILL #27:

REPRESENTATIVE RAMIREZ moved to amend on page 36. The motion carried with the vote unanimous. REPRESENTATIVE LORY moved to amend on pages

Judiciary Committee
March 22, 1977

94 and 95. The motion carried with the vote unanimous. REPRESENTATIVE HAND moved "be concurred in as amended". The motion carried with the vote unanimous. (amendments attached)

SENATE BILL #9:

REPRESENTATIVE RAMIREZ moved to amend. He explained the proposed amendments. The motion carried with the vote unanimous. REPRESENTATIVE RAMIREZ moved "be concurred in as amended". The motion carried with the vote unanimous.

CHAIRMAN SCULLY appointed the following members to carry senate bills.

SB 33	Representative Hand
SB 34	Representative Eudaily
SB 53	Representative Lory
SB 9	Representative Scully
SB 27	Representative Hand

SB 385	Representative Ramirez
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CHAIRMAN SCULLY announced there would be several topics presented for interim studies.

1. HJR 59 - legal fees & legal services in the state
2. Water adjudication process - if 809 fails
(also the preference system)
3. Parent and child rights for adoptive foster parents
4. Overall sentencing functions
The supreme court is going to do one also (not as comprehensive)
5. Mandatory liability and no-fault insurance

There being no further discussion or business to consider at this time the meeting adjourned at 9:40 a.m.

John P. Scully, Chairman

Mary Ellen Connelly, Secretary

SENATE BILL NO. 27

INTRODUCED BY BLAYLOCK

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO ELECTIONS AND TO REPEAL SECTIONS 23-3021, 23-3030, AND 23-4404, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 23-2601, R.C.M. 1947, is amended to read as follows:

"23-2601. Definitions. As used in ~~this act~~ Title 23 and Title 37, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Election" means a general, special, or primary nominating, municipal election, or an election in a school district held to choose a public officer or submit an issue for the approval or rejection of the people.

(2) "General election" means an election held for the election of public officers throughout the state at times specified by law.

(3) "Special election" means an election called by the proper authorities to fill vacancies or to raise money.

(4) "Vacancy" means an office which does not have an incumbent who has a right to exercise its functions and take its fees or emoluments.

(5) "Primary" or "primary election" means a statutory procedure for nominating candidates to public office at the polls.

(6) "Party" means any political organization which at the last preceding election for governor polled at least ~~three per cent (3%)~~ of the votes for governor.

(7) "Taxpayer" means a person who has paid a tax on property assessed on a county or city assessment roll next preceding the election at which a question is to be submitted to the vote of the taxpayers.

(8) "Registrar" means the county clerk and recorder and any regularly appointed deputy clerk and recorder.

(9) "Commissioners" means the board of county commissioners.

(10) "City" means any incorporated city or town.

(11) "Council" means any municipal council or commission."

Section 2. Section 23-4777, R.C.M. 1947, is amended to read as follows:

"23-4777. Definitions. As used in Title 23, ~~chapter 47, R.C.M. 1947~~ and Title 37, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Candidate" means an individual who has filed a declaration of nomination, certificate of nomination, or acceptance of nomination for public office as required by

1 law, but does not include a candidate for national office
2 who is subject to the provisions of federal election
3 campaign laws.

4 ~~(2) "Commissioner" means the commissioner of campaign~~
5 ~~finances and practices as described in section 23-4785.~~

6 ~~(3)~~ (2) "Election" means a general, special, or primary
7 election held to choose a public officer or submit an issue
8 for the approval or rejection of the people.

9 ~~(4)~~ (3) "Issue" or "ballot issue" means a proposal
10 submitted to the people at an election for their approval or
11 rejection including, but not limited to, initiatives,
12 referenda, proposed constitutional amendments, recall
13 questions, school levy questions, bond issue questions, or a
14 ballot question.

15 ~~(5)~~ (4) "Public office" means a state, county,
16 municipal, school, or other district office that is filled
17 by the people at an election.

18 ~~(6)~~ (5) "Contribution" means:

19 (a) an advance, gift, loan, conveyance, deposit,
20 payment, or distribution of money or anything of value to
21 influence an election;

22 (b) a transfer of funds between political committees;

23 (c) the payment by a person other than a candidate or
24 political committee of compensation for the personal
25 services of another person that are rendered to a candidate

1 or political committee; but

2 (d) ~~"contribution"~~ does not mean services provided
3 without compensation by individuals volunteering a portion
4 or all of their time on behalf of a candidate or political
5 committee, ~~nor~~ or meals and lodging provided by individuals
6 in their private residence for a candidate or other
7 individual.

8 ~~(7)~~ (6) "Expenditure" means a purchase, payment,
9 distribution, loan, advance, promise, pledge, or gift of
10 money or anything of value made for the purpose of
11 influencing the results of an election, but "expenditure"
12 does not mean:

13 (a) services, food, or lodging provided in a manner
14 that they are not contributions under ~~this act, nor~~
15 subsection (5): or

16 (b) payments by a candidate for his personal travel
17 expenses or for food, clothing, lodging, or personal
18 necessities for himself and his family.

19 ~~(8)~~ (7) "Anything of value" means any goods that have a
20 certain utility to the recipient that is real and that
21 ordinarily is not given away free, but is purchased.

22 ~~(9)~~ (8) "Political committee" means a combination of
23 two or more individuals, or a person other than an
24 individual, the primary or incidental purpose of which is to
25 support or oppose a candidate or issue or to influence the

1 result of an election by any expenditure.

2 ~~(40)~~(9) "Individual" means a human being.

3 ~~(44)~~(10) "Person" means an individual, corporation,
4 association, firm, partnership, cooperative, committee,
5 club, union, or other organization or group of individuals,
6 or a candidate as defined in subsection (1) of this
7 section."

8 Section 3. There is a new R.C.M. section that reads as
9 follows:

10 Commissioner of campaign finances and practices. In
11 23-4778 through 23-4795, "commissioner" means the
12 commissioner of campaign finances and practices created by
13 23-4785(1), unless the context clearly indicates otherwise.

14 Section 4. Section 23-2605, R.C.M. 1947, is amended to
15 read as follows:

16 "23-2605. Time of opening and closing of polls. (1)
17 Except as provided in subsection (2) ~~of this section~~:

18 (a) ~~The~~ in precincts having 100 or more registered
19 electors, the polls must be opened at 8 a.m. on the morning
20 of election day, and must be kept open continuously until 8
21 p.m. of that day;

22 (b) ~~In~~ in precincts having less than ~~one hundred~~ (100)
23 registered electors, the polls must be opened at 1 p.m. and
24 closed at 8 p.m. of that day;

25 (c) ~~Whenever~~ whenever all registered electors in any

1 precinct have voted, the polls shall be closed immediately.

2 (2) If a special election is held by a county, city,
3 high school district, or school district on the question of
4 incurring an indebtedness or making a special or additional
5 levy for any purpose, the polls shall open at 12 noon and be
6 kept open continuously until 8 p.m. However, the poll hours
7 shall be as specified in subsection (1) ~~of this section~~ if
8 the election is held on the same day, at the same polling
9 places, and with the same judges and clerks as a general,
10 county, school, or city election."

11 Section 5. Section 23-2704, R.C.M. 1947, is amended to
12 read as follows:

13 "23-2704. Notice and closing of registration for
14 elections on incurring of state indebtedness ~~other than for~~
15 ~~refunding or levy of tax~~. (1) If the question of state
16 indebtedness, issuance of bonds or debentures other than for
17 refunding, or the levy of a tax for state purposes, is
18 submitted at an election other than a general biennial
19 election, the registrar of each county shall publish in ~~the~~
20 ~~official county~~ a newspaper, of general circulation in the
21 county a notice signed by him, stating that registration
22 will close at noon on the ~~fortieth~~ (40th) day prior to the
23 date of the election unless the act providing for the
24 submission of the question fixes a different time for the
25 giving of notice. The notice shall be published ~~ten~~ (10)

1 days or more prior to the date when registration will be
2 closed unless the act providing for submission of the
3 question fixes a different time for closing registration.

4 (2) If the question is to be submitted at a general
5 biennial election, notice and the closing of registration
6 shall be governed by the laws applying to general biennial
7 elections. The provisions of ~~section 37-107, R.C.M., 1947~~
8 apply to the printing and distribution of copies of the
9 proposed law."

10 Section 6. Section 23-2802, R.C.M. 1947, is amended to
11 read as follows:

12 "23-2802. Publication and printing of amendments to
13 constitution. If a proposed constitutional amendment or
14 amendments are submitted to the people, the secretary of
15 state shall:

16 ~~(1) Have~~ have the proposed amendment or amendments
17 published in full twice each month for ~~two~~ (2) months
18 previous to the election at which they are to be voted upon
19 by the people in not less than one ~~(1)~~ newspaper ~~commonly~~
20 circulated of general circulation in each county.

21 ~~(2) Have a pamphlet printed containing an exact copy~~
22 ~~of the proposed amendment or amendments, an exact copy of~~
23 ~~existing constitutional provisions to be revised, and the~~
24 ~~amendment or amendments in the form in which it or they will~~
25 ~~be printed on the official ballot. The printed pamphlets~~

1 ~~shall be distributed as provided in section 27-107, R.C.M.~~
2 ~~1947."~~

3 Section 7. Section 23-2901, R.C.M. 1947, is amended to
4 read as follows:

5 "23-2901. Election proclamation by the
6 governor ~~contents~~. Sixty ~~(60)~~ days or more before a general
7 election, the governor shall issue an election proclamation
8 and transmit a copy to each board of county commissioners.
9 The proclamation shall contain:

10 (1) ~~A~~ a statement of the time of the election and the
11 offices to be filled;

12 (2) ~~As an~~ an offer of rewards stating: "There is a reward
13 of ~~one hundred dollars (\$100)~~ for the arrest and conviction
14 of any person violating any of the provisions of ~~sections~~
15 ~~94-1401 through 94-1424, R.C.M., 1947 Title 23 or Title 37.~~
16 Rewards will be paid until the total amount expended reaches
17 the sum of ~~five thousand dollars (\$5,000)~~."

18 Section 8. Section 23-3002, R.C.M. 1947, is amended to
19 read as follows:

20 "23-3002. County clerk as county registrar. (1) Each
21 county clerk and recorder is ex officio county registrar. He
22 shall serve without extra pay or compensation.

23 ~~(a) Serve without extra pay or compensation;~~

24 ~~(b) Have custody of registration books, cards, and~~
25 ~~other records provided for by this act.~~

(2) The official register of electors is an official record of the county clerk and recorder.

(3) Unless otherwise provided, the county clerk and recorder shall have custody of registration books, cards, and other records required by the election laws of this state."

Section 9. Section 23-3003, R.C.M. 1947, is amended to read as follows:

"23-3003. ~~Notaries public as deputy~~ Deputy registrars ~~appointment of additional deputies qualifications~~ duties. (1) All notaries public are deputy registrars in the county in which they reside. ~~They may register electors residing in any precinct within the county. No notary public may register any voter until he has been issued a certificate of approval by the county registrar certifying that he has received instructions on registration procedure from the county registrar.~~

(2) The commissioners shall appoint a minimum of two ~~(2)~~ deputy registrars who are not notaries public, a minimum of one ~~(1)~~ from each of the two ~~(2)~~ major political parties, for each precinct in the county from lists of persons recommended by the political parties. If the parties fail to submit lists, the commissioners shall appoint deputy registrars without recommendations from the parties. The number of appointed deputy registrars for each county shall

always be equally divided between the two ~~(2)~~ major political parties. ~~* An appointed~~ deputy registrar shall:

~~(a) Be~~ be a qualified resident elector in the precinct for which he is appointed.

~~(b) Register electors residing in any precinct in the county.~~

~~(c) No duly appointed deputy registrar shall register any voter until such deputy registrar shall have been issued a certificate of approval by the county registrar certifying that said deputy registrar has received instructions on registration procedure from the county registrar.~~

(3) No deputy registrar may register a voter until that deputy registrar has been issued a certificate of approval by the county registrar certifying that the deputy registrar has received instructions on registration procedure from the county registrar.

(4) A deputy registrar who has been issued the certificate required by subsection (3) may register electors residing in any precinct of the county for which he is a deputy registrar.

~~(3)~~ (5) Within ~~three~~ ~~(3)~~ days after a registration card is filled out, deputy registrars shall forward the card to the registrar. Registration cards properly executed prior to the registration deadline shall be accepted by the registrar

for ~~three~~ {3} days after the deadline."

Section 10. Section 23-3014, R.C.M. 1947, is amended to read as follows:

"23-3014. Cancellation of ~~registry~~ registration for other reasons ~~reregistrations~~. (1) The registrar shall cancel any registration card:

(a) ~~at~~ at the written request of the person registered;

(b) ~~when~~ if a certificate of the death of any elector is filed or if an elector is reported as deceased by the department of health and environmental sciences in the department's reports submitted to the county under 91-4458:

(c) ~~within~~ whenever ~~forty-five~~ {45} days or more prior to the closing of registration, three {3} qualified registered electors residing within the precinct ~~may~~ challenge an elector by filing affidavits giving the name of the challenged elector, his registry number, his residence, and stating of the personal knowledge of the affiant the person registered does not reside at the place designated on his registration card;

(d) ~~when~~ whenever the insanity of the elector is legally established;

(e) ~~if whenever a certified copy of a final judgment of conviction of any elector of a felony is filed; or~~ WHENEVER THE INCARCERATION OF AN ELECTOR IN A PENAL

INSTITUTION FOR A FELONY CONVICTION IS LEGALLY ESTABLISHED;
OR

(f) ~~if~~ whenever a certified copy of a court order directing the cancellation is filed with the registrar.

(2) Within ~~thirty~~ {30} days after registration has been canceled, the registrar shall send written notice to the elector at the address shown on the registration card. If a person proves to the registrar that he is qualified, he may reregister.

~~{2} At the close of registration, the court clerk of each county shall send a list of those electors whose registrations have been cancelled due to a felony conviction to the secretary of state. The secretary of state shall compile a list of all such electors and send a copy of the list to each registrar."~~

Section 11. Section 23-3015, R.C.M. 1947, is amended to read as follows:

"23-3015. Challenges prior to election ~~registrars duties challenges on election day election judges duties.~~

(1) An elector may challenge the qualifications of another elector any time not later than ~~twenty~~ {20} days prior to an election. The challenge must:

(a) ~~be~~ be filed with the registrar and be signed by the elector;

(b) ~~so~~ be verified by the affidavit of the elector

that the elector designated is not entitled to vote;

(c) ~~State~~ state the grounds of the challenge, objection, and disqualification.

~~(d) Notify the elector within five (5) days by registered United States mail that his qualifications as an elector have been challenged.~~

(2) The registrar shall:

(a) ~~File~~ file the affidavit of challenge in his office;

(b) ~~Deliver~~ deliver a correct copy of the affidavit to the judges of election together with a copy of the precinct registers, check lists, and other documents;

(c) ~~Write~~ write opposite the name of any person whose qualifications are challenged the words, "to be challenged-";

~~(d) notify the elector within 5 days by certified or registered mail that his qualifications as an elector have been challenged.~~

(3) An elector's right to vote may also be challenged on election day by any registered elector by orally stating to the election judges the grounds of the challenge.

(4) The election judges shall:

(a) ~~Test~~ test the qualifications of the elector challenged under oath if he applies to vote;

(b) ~~Compare~~ compare the answers of the elector with

the entries in the precinct register books; and

(c) ~~Not~~ not permit him to vote if the elector is found to be disqualified because the answers given do not correspond to the entry in the precinct registers, or the elector is disqualified for any cause under the law, or he refuses to take an oath or affirmation as to his qualifications.

(5) The election judges may require the challenged elector to produce one ~~(1)~~ or more ~~elector~~ electors of the county to be examined under oath as to the qualifications of the challenged elector, and may also request assistance from the county attorney and the registrar in determining the elector's qualifications."

Section 12. Section 23-3018, R.C.M. 1947, is amended to read as follows:

"23-3018. Name on precinct register prima facie evidence of right to vote ~~elector's identity election judges' duties as to precinct register.~~ (1) A person shall may not vote at an election mentioned in ~~this act~~ Title 23 or Title 37 unless his name appears on election day in the copy of the official precinct register furnished by the registrar to the election judges. The fact that his name appears in the copy of the precinct register is prima facie evidence of his right to vote.

(2) If the election judges have good reason to

believe, or if they are informed by a qualified elector that the person offering to vote is not the person registered in that name, he ~~shall~~ may not be allowed to vote until he has proved his identity by the oath of two ~~(2)~~ reputable electors of the precinct in which he is registered.

~~(2) The election judges in each precinct at every general or special election in a precinct register certified to them by the registrar shall:~~

~~(a) Mark a cross (X) upon the line opposite the name of the elector;~~

~~(b) Require the elector to sign his name upon one of the precinct registers;~~

~~(c) Require an elector, who is not able to sign his name, to produce two (2) electors who shall make an affidavit before the election judges in a form prescribed by the secretary of state. One of the election judges shall write on the affidavit the elector's name, note his inability to sign, and the names of the electors making affidavits. The affidavits shall be returned to the registrar with the other election records."~~

Section 13. Section 23-3026, R.C.M. 1947, is amended to read as follows:

"23-3026. Commissioners to provide registrar with sufficient help. The commissioners shall provide the registrar with sufficient help for the duties imposed by

~~this act~~ Title 23 or Title 37. The cost of stationery, printing, publishing, and posting ~~are~~ is a proper charge against the county."

Section 14. Section 23-3304, R.C.M. 1947, is amended to read as follows:

"23-3304. Declaration of nomination ~~filing fees~~ ~~printing of victorious write-in candidates on general election ballot.~~ (1) Each candidate in the primary election, shall send a declaration of nomination to the secretary of state, registrar, or city clerk. Each candidate for governor must send a joint declaration of nomination with a candidate for lieutenant governor.

(2) Each candidate must sign the declaration and send with it the required filing fee, or in the case of a candidate who cannot afford the filing fee, send with it the documents required in lieu of a filing fee. The declaration of nomination shall be acknowledged by a notary public if sent by mail, or by the officer of the office at which the filing is made.

(3) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by his party.

(4) Nominating declarations are filed:

(a) ~~In~~ in the office of secretary of state for congressional offices, state or district offices to be voted

1 for in more than one ~~(4)~~ county, members of the legislative
2 assembly legislature, and judges of the district court;

3 (b) ~~in~~ in the office of the registrar for county and
4 district offices to be voted for in only one ~~(4)~~ county
5 only, other than A LEGISLATOR OR A JUDGE OF THE DISTRICT
6 COURT, and for ~~township and~~ precinct offices;

7 (c) ~~in~~ in the office of the city clerk for all city
8 officers.

9 (5) Filing fees are as follows:

10 (a) ~~For~~ for offices having a an annual salary of ~~one~~
11 ~~thousand dollars (\$1,000) or less per annum, ten dollars~~
12 ~~(\$10)~~, except candidates for the legislature must pay
13 ~~fifteen dollars (\$15)~~;

14 (b) ~~For~~ for offices having a an annual salary of more
15 than ~~one thousand dollars (\$1,000) per annum, one per cent~~
16 ~~(1%)~~ of the total annual salary;

17 (c) ~~For~~ for the ~~offices~~ office of county
18 commissioner;

19 (i) in counties of the first class, ~~forty dollars~~
20 ~~(\$40)~~;

21 (ii) in counties of the second class, ~~thirty-five~~
22 ~~dollars (\$35)~~;

23 (iii) in counties of the third class, ~~thirty dollars~~
24 ~~(\$30)~~;

25 (iv) in counties of the fourth class, ~~twenty-five~~

1 ~~dollars (\$25)~~;

2 (v) in counties of other classes, ~~ten dollars (\$10)~~;

3 (d) ~~For~~ for offices in which compensation is paid in
4 fees, ~~five dollars (\$5)~~;

5 (e) ~~For~~ for state, county, and precinct committeemen,
6 delegates to national conventions, and presidential
7 electors, no fees are required.

8 (6) A person nominated by having his name written in
9 on the primary ballot and desiring to accept the nomination
10 shall may not have his name printed on the general election
11 ballot unless he:

12 (a) ~~Files~~ files with the secretary of state,
13 registrar, or city clerk, within at least ~~ten~~ ~~(10)~~ days
14 after the primary a written declaration indicating his
15 acceptance of the nomination;

16 (b) ~~Pays~~ pays the required filing fee or if indigent,
17 complies with subsection (7);

18 (c) ~~Received~~ received at least ~~five per cent (5%)~~ of
19 the votes cast for the office at the last preceding general
20 election.

21 (7) ~~Indigent candidates.~~ If a person is unable to pay
22 a filing fee, the filing officer shall accept the following
23 documents in lieu of a filing fee:

24 (a) from a write-in candidate, a verified statement
25 that he is unable to pay the filing fee;

(b) from a candidate for nomination, a verified statement that he is unable to pay the filing fee and a written petition for nomination as a candidate that meets the following requirements:

(i) contains the name of the office to be filled, the candidate's name, residence, occupation, and business address;

(ii) is signed by ~~five percent~~ ^(5%) or more of the total vote cast for the successful candidate for the same office at the next preceding general election, and

(iii) is signed by electors residing within the political division of the state in which the candidate petitions for nomination.

(6) The declaration for nomination shall be in the form and contain the information prescribed by the secretary of state. Every declaration must be signed by the elector seeking nomination."

Section 15. Section 23-3305, R.C.M. 1947, is amended to read as follows:

"23-3305. Deadline for filing nominating declarations ~~persons with whom filed~~. Nominating declarations shall be filed not later than 5 p.m., ~~forty~~ ⁽⁴⁰⁾ days before the date of the primary election. ~~Declarations for nomination to an office filled by election throughout the state, as judge of a district court, to an office filled by election in more~~

~~than one (1) county, or as a member of the legislative assembly shall be filed with the secretary of state. Declarations for nomination to an office filled by election in one (1) county, or district or city shall be filed with the registrar or city clerk."~~

Section 16. Section 23-3308, R.C.M. 1947, is amended to read as follows:

"23-3308. ~~Ballots, how arranged and voted~~ Arrangement of ballots. (1) At the primary, there shall be a ballot for each political party entitled to participate. Each ballot shall be printed on a separate sheet of white paper of the same size, folded, and securely fastened at the top.

(2) Candidates' names shall be arranged alphabetically by surnames, under the offices and under the proper party designation. The names of the candidates for governor and lieutenant governor shall be arranged by the surname of the candidate for governor. When two ~~(2)~~ or more persons are candidates for nomination for the same office, the registrar shall divide the ballot to provide a rotation of the names of the candidates as follows:

(a) ~~Divide~~ divide all county ballot forms into sets equal in number to the greatest number of candidates for nomination or election to any office;

(b) ~~Arrange~~ arrange the sets so that candidates' names are rotated by removing one name from the top of the list

for each nomination or office and place the name or number at the bottom of the list for each successive set of ballot forms; however, in printing ballots for use in any one ~~(4)~~ precinct, only one ~~(4)~~ set shall be used and they shall be identical.

~~(4)~~(3) If an elector writes the name of a person upon a ballot, and the person's name appears as a candidate upon another ballot, the ballot shall count for the person only as a candidate of the party upon whose ticket his name is written.

~~(4)~~(4) If a person is nominated upon more than one ~~(4)~~ ticket, not later than ~~ten~~(10) days after the election he shall file written notification with the secretary of state, registrar, or city clerk of the party under which his name is to appear upon the ballot for the general election, and, if he fails to notify the proper officers, his name shall appear under the party with whom his nominating declaration was first filed.

~~(4)~~(5) If a person fails to be nominated upon the party ticket contained in his nominating declaration, his name shall may not be printed upon any ballot with party designation.

~~(4)~~(6) ~~This act does Title 23 and Title 37 do~~ not preclude an elector from having his name printed upon the ballot as an independent candidate, and no candidate shall

may have his name printed on more than one ~~(4)~~ ticket.

~~(4)~~(7) Ballots shall be printed on white paper in the form of the Australian ballot, and the candidates of each party shall be printed on a separate ticket.

~~(4)~~(8) After preparing his ballot, the elector shall detach it from the remaining tickets and fold it so that the face is concealed and the official stamp is seen.

~~(4)~~(9) The elector shall fold the remaining tickets, vote the marked ballot without leaving the polling place, and deposit the remaining tickets in a separate box marked as the blank ballot box.

~~(4)~~(10) Immediately after the recount period, the election judges shall, without examination, destroy as provided in 23-4103, the tickets deposited in the blank ballot box shall be destroyed.

Section 17. Section 23-3311, R.C.M. 1947, is amended to read as follows:

"23-3311. Tally sheets -- keeping and announcing the tally ~~statement~~. (1) The registrar shall furnish tally sheets for each political party having candidates in the primary election for each voting precinct. Tally sheets shall contain the names of the candidates, names of the political parties designated at the head, and be numbered in the order in which the names appear on the official ballot.

(2) Tally sheets shall show:

(a) ~~The~~ the number and name of each person voted for;

(b) ~~Office~~ the office for nomination to which each person was voted for;

(c) ~~Total~~ the total number of votes cast for each candidate for nomination.

(3) The election clerks and judges shall audibly announce the tally or count, and shall keep the tally in the form prescribed by the secretary of state. The tally or count shall be certified by the election clerks and judges.

(4) The election clerks shall in ink:

(a) ~~Keep~~ keep tally upon the prescribed tally sheet of each political party;

(b) ~~Total~~ total the number of tallies and write the total immediately to the right of the last tallies for each candidate and also in the columns headed "total vote";

(c) ~~Prepare~~ prepare the certificate required by subsection (3) ~~of this section~~;

(d) ~~Immediately~~ immediately upon completion of the count, sign the tally sheets, and each clerk shall certify which sheets were kept by him.

~~(e) (5)~~ If the ~~chairman~~ and judges are satisfied with the correctness of the tally sheets, they shall sign all the tally sheets.

~~(5) (6)~~ The election clerks shall then prepare a statement of that portion of the tally sheets showing the

number and name and political party of each candidate for nomination and the office and total votes received by each in the precinct, and shall prepare the certificate. The election clerks and judges who complete the count shall sign the statement and immediately post it in a conspicuous place outside of the polls. The statement shall remain posted for ~~ten~~ (10) days."

Section 18. Section 23-3312, S.C.R. 1947, is amended to read as follows:

"23-3312. Duties of election clerks and judges after canvassing votes -- seal. (1) Immediately after canvassing votes, the election clerks and judges who complete the count shall enclose the pollbooks in separate envelopes and securely seal them. The election clerks and judges shall:

(a) ~~Enclose~~ enclose the tally sheets in separate envelopes and securely seal them;

(b) ~~Enclose~~ enclose the precinct registers in separate envelopes and securely seal them;

(c) ~~Enclose~~ enclose all ballots fastened together and in separate envelopes and securely seal them;

(d) ~~Specify~~ specify in ink the contents, and address each package to the registrar of the county in which the election precinct is situated;

(e) ~~Mark~~ mark the sealed ballot packages or the outside showing what numbers are contained, but once sealed

they are may not to be opened until ordered by the proper court.

(2) When the count is completed, the sealed ballots shall be placed in two (2) ballot boxes, the boxes locked and the seal of the board passed over the keyhole and rim of the lid so that to open the box the seal must be broken. The registrar or ~~the canvassers~~ those persons making the abstracts of the votes shall may not break the seal, nor shall may anyone break the seal except upon court order in case of contest or on order of the commissioners when the boxes are needed for the ensuing election."

Section 19. Section 23-3313, R.C.M. 1947, is amended to read as follows:

"23-3313. Abstracts of votes, -- when and how made -- ~~decision by lot in event of tie certificate for compensation -- highest number of votes nominates.~~ (1) At 8 a.m. on the third day after the close of any primary election, or at 8 a.m. on a day sooner if all the returns are in, the registrar, taking two (2) assistants who are justices of the peace, county commissioners, or either, shall open the returns and make abstracts of the votes.

(2) Abstracts of votes for nomination of each party for ~~governor, lieutenant-governor, secretary of state, attorney-general, state auditor, superintendent of public instruction, public service commissioners, clerk of the~~

~~supreme court, state treasurer, justices of the supreme court, United States senators, United States representatives, judges of the district court, and members of the legislative assembly, congressional offices, state or district offices to be voted on in more than one county, members of the legislature, and judges of the district court~~ shall be on one (1) sheet, separately for each political party, ~~and shall be forthwith transmitted to the secretary of state, as required by section 23-3314. The registrar, immediately after making the abstracts of votes, shall send by mail a copy of each of the abstracts to the secretary of state.~~

(3) Abstracts of votes for county and district offices to be voted on in only one county, other than A LEGISLATOR OR A judge of the district court, and precinct offices shall be placed on separate sheets for each political party, and the registrar shall certify the nomination for each party and enter upon his register of nominations the name of each of the persons having the highest number of votes for nomination. He shall notify each person who is nominated by mail.

(4) If there is a tie for the same nomination in one (1) party, the registrar shall notify the affected persons to come to his office at a time set by the registrar. The registrar shall then decide publicly by lot which of the

persons is the nominee. The registrar shall enter the name of the person chosen as nominee upon his register of nominations.

(5) The registrar shall, on receipt of the primary returns, make out a certificate stating the compensation the election clerks and judges are entitled to and transmit this certificate to the commissioners. The commissioners shall order the compensation paid out of the county treasury.

(6) In all primary elections, the person having the highest number of votes for nomination to any office is the nominee for his political party for that office."

Section 20. Section 23-3314, R.C.M. 1947, is amended to read as follows:

"23-3314. ~~Copy of abstracts to be sent secretary of state--~~ canvass Canvass by secretary of state -- governor's certificate of nomination and proclamation -- decision by lot in event of tie. ~~(1) The registrar, immediately after making the abstracts of votes, shall send a copy of each of the abstracts by mail to the secretary of state.~~

~~(2) (1)~~ (1) The secretary of state shall, in the presence of the governor and the ~~state treasurer~~ superintendent of public instruction, proceed not later than ~~fifteen~~ (15) days after the date of the primary election to canvass the votes given for nomination for ~~governor and lieutenant governor~~ United States senator, United States representative,

~~attorney general, superintendent of public instruction, public service commissioner, secretary of state, state treasurer, state auditor, justices of the supreme court, clerk of the supreme court, judges of the district court, members of the legislative assembly, and all other officers voted in any district comprising more than one county congressional offices, state or district offices to be voted on in more than one county, members of the legislature, and judges of the district court.~~

~~(2)~~ (2) The governor shall grant a certificate of nomination to the person having the highest number of votes for each office, and shall issue a proclamation declaring the nomination of each person by his party.

~~(4) (3)~~ (3) When a tie exists between two ~~(2)~~ or more persons for nomination in the same party, the secretary of state shall immediately give notice to the persons tied, to attend in person or by attorney, at his office at a time appointed by him. He shall then publicly decide by lot which person is nominated by his party. The governor shall issue his proclamation declaring the nomination of that person."

Section 21. Section 23-4016, R.C.M. 1947, is amended to read as follows:

"23-4016. ~~State canvassers, composition~~ Composition and meeting of board of state canvassers. Within ~~twenty~~ (20) days after the election, or sooner if the returns are all

received, the state auditor, ~~state-treasurer~~ superintendent of public instruction, and attorney general shall meet as a board of state canvassers in the office of the secretary of state and determine the vote. The secretary of state, who is secretary of the board, shall make out and file in his office a statement of the canvass and transmit a copy to the governor."

Section 22. Section 23-3315, R.C.M. 1947, is amended to read as follows:

"23-3315. Error in ballot or other wrongful or neglectful act. (1) ~~Whenever~~ The court shall order an officer or person charged with a wrongful act or neglect to perform his duties or show cause why the order should not issue whenever it appears by affidavit to the district court, to the supreme court, or to a supreme court judge:

(a) ~~That that~~ an error or omission has occurred, or is about to occur, in the printing of the name of any candidate or other matter on the official primary nominating election ballots;

(b) ~~That that~~ any error has been, or is about to be, committed in the printing of the ballots;

(c) ~~That that~~ the name of any person or any other matter has been, or is about to be, wrongfully placed upon the ballots;

(d) ~~That that~~ any wrongful act has been performed by

any judge or clerk of the primary election, registrar, canvassing board or member, or by any person charged with a duty under ~~this act, Title 23 or Title 37~~ or that any neglect of duty by any of the persons has occurred or is about to occur; ~~the court shall require by order the officer or person charged with the act or neglect to perform his duties required by law or show cause why the order should not issue.~~

(2) Failure to obey the court order is contempt.

(3) Any person aggrieved by the refusal or failure of any person to perform any duty required by ~~this act shall~~ Title 23 or Title 37, without derogation of any other right or remedy, be is entitled to seek a writ of mandamus in the district court and the proceeding shall be immediately heard and decided."

Section 23. Section 23-3316, R.C.M. 1947, is amended to read as follows:

"23-3316. Contest — notice — hearing — how tried and decided — certificate. (1) Five ~~45~~ days or less after a person has been nominated, any person wishing to contest the nomination to any state, county, district, ~~township~~, precinct, or city office shall give notice in writing to the person whose nomination he intends to contest briefly stating the cause for the contest.

(2) The contestant shall make application to the

1 district court judge in the county where the contest is to
2 be had. The judge shall then set the time for the hearing.

3 (3) The contestant shall serve notice ~~three~~ ~~(3)~~ days
4 before the hearing is scheduled. The notice shall state the
5 time and place of the hearing.

6 (4) The judge of the district court shall hear and
7 determine the case and make all necessary orders for the
8 trial of the case and carrying his judgment into effect. The
9 order of the judge shall express the will of a majority of
10 the legal voters of the political party, as indicated by
11 their votes, disregarding technicalities or errors in
12 spelling.

13 (5) Each party is entitled to subpoenas.

14 (6) The registrar shall issue a certificate to the
15 person declared nominated by the court. The certificate
16 shall be conclusive evidence of the right of the person to
17 hold the nomination."

18 Section 24. Section 23-3319, R.C.M. 1947, is amended
19 to read as follows:

20 "23-3319. Certificates of nominations to be preserved
21 -- certification of candidates' names and descriptions --
22 statement of votes received by candidate. (1) The secretary
23 of state, registrars, and city clerks shall preserve all
24 certificates of nominations for ~~one~~ ~~(1)~~ year. All
25 certificates shall be open to public inspection under rules

1 adopted by the various offices.

2 (2) Forty-five ~~(45)~~ days or more before an election,
3 the secretary of state shall certify to the registrars the
4 name and description of each person nominated, as specified
5 in the certificates of nomination filed with him.

6 ~~(3) -- Each election board shall transmit to the~~
7 ~~secretary of state a statement of the number of votes cast~~
8 ~~for a person as the candidate for the independent body by~~
9 ~~which he was nominated."~~

10 Section 25. Section 23-3403, R.C.M. 1947, is amended
11 to read as follows:

12 "23-3403. ~~Committees -- powers -- state central committee~~
13 ~~to appoint county central committee where none exists powers~~
14 ~~of county and city central committees -- role of state~~
15 ~~central committee where no county central committee exists.~~

16 (1) The county and city central committee may:

17 (a) ~~make~~ make rules for the government or its
18 political party in each county, not inconsistent with any of
19 the provisions or ~~the act nor the~~ election laws of this
20 state or the rules of its state political party;

21 (b) ~~First elect~~ elect two ~~(2)~~ county members of the state
22 central committee, one ~~(1)~~ of whom shall be a man and one
23 ~~(1)~~ of whom shall be a woman, ~~elect~~ the members of the
24 congressional committee, and fill all vacancies and make
25 rules in their jurisdiction.

(2) If there is no county central committee, the state central committee shall appoint a county central committee."

Section 26. Section 23-3405, R.C.M. 1947, is amended to read as follows:

"23-3405. Organization of committee -- meeting -- county convention to elect delegates and alternates to state convention. (1) The committee shall meet prior to the state convention of its political party and organize by electing a chairman and one ~~44~~ or more vice-chairmen. The chairman or first vice-chairman shall be a woman. ~~They~~ The committee shall elect a secretary and other officers as are proper. It is not necessary for the officers to be precinct committeemen.

(2) The committee may select managing or executive committees and authorize subcommittees to exercise ~~any--and~~ all powers conferred upon the county, city, state, and congressional central committees by ~~this--act~~ the election laws of this state.

(3) The chairman of the county central committee shall call the central committee meeting and not less than ~~four~~ ~~44~~ days before the date of the central committee meeting shall publish the call in a newspaper published at the county seat and mail a copy of the call to each precinct committeeman. If party rules permit the use of a proxy, no proxy ~~shall~~ may be recognized unless held by an elector of

the precinct of the committeeman executing it.

(4) The county chairman of the party shall preside at the county convention. No person other than a duly elected or appointed committeeman or officer of the committee is entitled to participate in the proceedings of the committee.

(5) If a committeeman is absent, the convention may fill the vacancy by appointing some qualified elector of the party, resident in the precinct, to represent the precinct in the convention.

(6) The county convention shall elect delegates and alternate delegates to the state convention under rules of the state party. The chairman and secretary of the county convention shall issue and sign certificates of election of the delegates."

Section 27. Section 23-3506, R.C.M. 1947, is amended to read as follows:

"23-3506. Registrar to provide printed ballots -- ~~marking-by-electors--~~ other ballots ineffective. Except as otherwise provided in ~~this--act~~ the election laws of this state:

(1) ~~The~~ the registrar shall provide printed ballots for every election for public officers. He shall print on the ballot the names of all candidates, including candidates for chief justice and ~~associate~~ justices of the supreme court, and judges of the district courts;

~~(2) An elector may write or paste on his ballot the name of any person for whom he desires to vote for any office, but must mark it as provided in section 23-3606, when the ballot is marked in this manner it must be counted the same as though the name is printed upon the ballot and marked by the voter.~~

~~(3)(2)~~ Ballots ballots other than those printed by the registrars may not be cast or counted in any election."

Section 28. Section 23-3512, S.C.M. 1947, is amended to read as follows:

"23-3512. Columns and material to be printed on ballot. (1) Each ballot shall contain three ~~(3)~~ categories with at least one ~~(4)~~ column for each category.

(2) At the head of the first column to the left shall be the words, "STATE AND NATIONAL," in boldface type, followed by a list of all candidates for state and national offices, including supreme court justices, district court judges, and members of the ~~legislative assembly~~ legislature, and the list shall progressively continue to the top of the second column.

(3) Next shall be the words--"~~COUNTY AND TOWNSHIP,~~" word "COUNTY" in large boldface type and beneath the heading all candidates for county and ~~township~~ offices. The list shall progressively continue on to the top of the third column.

(4) Next shall be the words "INITIATIVES, REFERENDUMS, AND CONSTITUTIONAL AMENDMENTS," in boldface type, and listed thereunder shall be all proposed constitutional amendments and measures to be voted which do not involve the creation of any state levy, debt, or liability. If there are no such measures, this heading shall be eliminated.

(5) Following each except the last column, the words "VOTE IN THE NEXT COLUMN" shall appear.

(6) All measures involving the creation of a state levy, debt, or liability shall be submitted to the voters upon a separate official ballot.

(7) Each ballot shall be printed so that all the matters printed are equally apportioned among the three ~~(3)~~ categories ~~columns~~ CATEGORIES as nearly as possible."

Section 29. Section 23-3513, S.C.M. 1947, is amended to read as follows:

"23-3513. Order of placement. (1) The order of offices on the ballot in the first column designated "STATE AND NATIONAL," shall be as follows:

(a) If the election is in a year in which a president of the United States is to be elected, in spaces separated from the balance of the party tickets by a heavy black line, shall be the names and spaces for voting for candidates for president and vice-president. The names of candidates for president and vice-president for each political party shall

be grouped together.

(b) United States senator;

(c) United States representative;

(d) Governor and lieutenant governor;

(e) Secretary of state;

(f) Attorney general;

~~(g) State treasurer;~~

~~(h) (g)~~ State auditor;

~~(i) (h)~~ Public service commissioners;

~~(j) (i)~~ State superintendent of public instruction;

~~(k) (j)~~ Clerk of the supreme court;

~~(l) (k)~~ Chief justice of the supreme court;

~~(m) (l)~~ Associate--justices Justices of the supreme court;

~~(n) (m)~~ District court judges;

~~(o) (n)~~ State senators;

~~(p) members~~ Members of the house of representatives.

(2) If any offices are not to be elected, they shall not be designated but the order of offices to be filled shall maintain their relative positions.

(3) In the column designated, "COUNTY AND TOWNSHIP," the following order of placement shall be observed:

(a) ~~Clerk~~ clerk of the district court;

(b) ~~County~~ county commissioner;

(c) ~~County~~ county clerk and recorder;

(d) ~~Sheriff~~ sheriff;

(e) ~~County~~ county attorney;

(f) ~~County~~ county auditor;

(g) ~~Other~~ other offices in the order designated by the registrar.

~~(3) (4)~~ In the third column constitutional amendments shall be followed by referendum and initiative measures."

Section 30. Section 23-3515, R.C.M. 1947, is amended to read as follows:

"23-3515. Stub, size and contents. (1) The ballot shall be printed on the same leaf with a stub, and separated by a ~~perforated-stub~~ perforation.

(2) The stub shall extend the entire width of the ballot, and have instructions printed on it.

(3) Upon the face of the stub shall be printed, in type called brevier capitals, the following:

(a) "This ballot should be marked with an 'X' in the square before the ~~names~~ name of each person or candidate for whom the elector intends to vote. The elector may write in blank spaces, or paste over another name, the name of a person for whom he wishes to vote, and vote by marking an 'X' in the square before the name."

(b) "If a ballot contains a constitutional amendment, or other question to be submitted to a vote of the people,

1 it is voted on by marking an 'x' in the square before the
2 amendment or question."

3 (4) On the front of the stub shall be printed or
4 stamped, by the registrar or other officer, the consecutive
5 number of the ballot, beginning with number ~~one--(1)~~ and
6 increasing in regular numerical order to the total number of
7 ballots required for the precinct."

8 Section 31. Section 23-3606, R.C.L. 1947, is amended
9 to read as follows:

10 "23-3606. Method of voting. (1) On receipt of his
11 ballot, the elector must immediately retire to one of the
12 booths and prepare his ballot.

13 (2) He shall prepare his ballot by marking an "x" in
14 the square before the name of the person or persons for whom
15 he intends to vote.

16 (3) If the ballot contains a constitutional amendment,
17 or other question to be submitted to the vote of the people,
18 he shall mark an "x" in the applicable square indicating his
19 vote either for or against the amendment or question.

20 (4) The elector may write in the blank spaces, or
21 paste over any other name, the name of any person for whom
22 he wishes to vote, and may vote for that person by marking
23 an "x" before the name. When the ballot is marked in this
24 manner, it must be counted the same as though the name is
25 printed upon the ballot and marked by the voter.

1 (5) After preparing his ballot the elector must fold
2 it so the face of the ballot will be concealed and the
3 endorsements may be seen, and hand it to the election judges
4 who shall announce the name of the elector and the printed
5 or stamped number on the stub in a loud tone of voice. The
6 judge must announce the voter's name and record the name in
7 the pollbook. If the voting is in a city, the voter's
8 residence shall also be announced and recorded in the
9 pollbook.

10 (6) If the elector is entitled to vote, and if the
11 printed or stamped number is the same as that entered on the
12 pollbooks as the number on the stub, the judge shall receive
13 the ballot, and remove the stub in sight of the elector,
14 depositing each ballot in the ballot box and each stub in a
15 box for detached ballot stubs.

16 (7) Any elector who spoils his ballot may, on
17 returning the spoiled ballot, receive another in place of
18 it."

19 Section 32. Section 23-3610, F.C.M. 1947, is amended
20 to read as follows:

21 "23-3610. Marking precinct register book before
22 elector votes -- procedure. (1) The election judges at every
23 primary, general, or special election shall, in the precinct
24 register book, mark a cross (X) upon the line opposite to
25 the name of the elector.

(2) Before an elector is permitted to vote, the election judges shall require the elector to sign his name on the place designated in the precinct register.

(3) The election judges shall require an elector not able to sign his name to produce two ~~(2)~~ electors who shall make an affidavit before one or more of the election judges, ~~or one (1) of them~~, in a form prescribed by the secretary of state.

(4) The affidavit shall be filed by the election judges, and returned to the registrar with the returns of the election. One ~~(1)~~ of the judges shall write the elector's name, note noting the fact of his inability to sign, and the names of the two ~~(2)~~ electors.

(5) If the elector fails or refuses to sign his name, and if unable to write fails to procure two ~~(2)~~ electors who will take the oath required, he ~~shall~~ may not be ~~allowed~~ to vote.

~~(6) Immediately after the canvass of the returns, the election judges shall deliver to the registrar the official register, sealed, with the election returns and pollbook which have been used for the election.~~

~~(7)~~ (5) Each precinct shall keep a list of persons voting, and the name of each person who votes shall be entered in it and numbered in the order voting. This list is known as the pollbook."

Section 33. Section 23-3611, R.C.M. 1947, is amended to read as follows:

"23-3611. Grounds of challenge. A person offering to vote may be orally challenged by any elector of the county, upon the following grounds:

(1) ~~that~~ that he is not the person whose name appears on the register or checklist;

(2) ~~That he has been adjudicated insane or is confined to a state institution~~ that he is of unsound mind, as determined by a court;

(3) ~~That~~ that he has voted before in that day election;

(4) ~~That~~ that he has been convicted of a felony and ~~has not been pardoned~~ is serving a sentence in a penal institution."

Section 34. Section 23-3612, R.C.M. 1947, is amended to read as follows:

"23-3612. Proceedings ~~on~~ pursuant to challenges ~~for want of identity, having voted before, and conviction of felony~~ oaths. (1) If the challenge is on the ground that the person is not the person whose name appears on the official register, the election judges shall administer the following oath: "You do swear (or affirm) that you are the person whose name is entered on the official register and precinct list."

(2) If the challenge is on the ground that the person has voted before in that day election, the judges shall administer this oath: "You do swear (or affirm) that you have not before voted before in this day election."

(3) If the challenge is on the ground that the person has been convicted of a felony and is serving a sentence in a penal institution, the judges shall administer the following oath: "You do swear (or affirm) either that you have not been convicted of a felony or that, if you have been convicted of a felony, you are not serving a sentence in a penal institution."

Section 35. Section 23-3613, R.C.M. 1947, is amended to read as follows:

"23-3613. ~~Challenges, how determined~~ Determination of challenges. (1) Challenges on the grounds that the person is not the person whose name appears on the official register or that the person has before voted that day are determined in favor of the person challenged by his taking the oath tendered.

(2) A challenge that the person has been convicted of a felony and not pardoned must be determined in favor of the challenged on his taking the oath tendered, ~~unless the conviction is proved by producing an authenticated copy of the record, or by oral testimony of two (2) witnesses.~~

~~(a) If a person convicted of a felony states he was~~

~~pardoned, he must exhibit his pardon or certified copy to the election judges.~~

~~(b) If the pardon is found sufficient, the election judges shall administer this oath: "You do swear (or affirm) that you have not been convicted of any felony other than that for which a pardon is now exhibited."~~

~~(c) After taking the oath, the person must be allowed to vote if otherwise qualified, unless a conviction of some other felony is proved."~~

Section 36. Section 23-3708, R.C.M. 1947, is amended to read as follows:

"23-3708. Disposition of marked ballot upon receipt by registrar or clerk. (1) Upon receipt of the envelope, the registrar, city clerk, or clerk of a first class school district shall immediately enclose it in a larger envelope, together with the elector's application, and seal ~~it~~ the larger envelope.

(2) The registrar, city clerk, or clerk of a first class school district shall safely keep it in his office until delivered or mailed by him."

Section 37. Section 23-3711, R.C.M. 1947, is amended to read as follows:

"23-3711. Duty of election judges -- pollbooks, ~~and~~ and numbering ballots ~~and rejected ballots~~. (1) The election judges, at the opening of the polls, shall note on the

pollbooks opposite the numbers corresponding to the number of absentee ballots issued the fact that the ballots were issued and reserve the numbers for the absent or physically incapacitated voters. The notation may be made by writing the words "absent or physically incapacitated voters" opposite the numbers.

(2) The election judges shall insert only the ~~saxes~~ ~~name~~ of the elector entitled to each particular number according to the certificate of the registrar or city clerk and the number of his ballot.

~~(3) Any absentee ballots which have been rejected shall be placed with the voter's application and the absent or physically incapacitated voter's envelope furnished by the registrar or city clerk.~~

~~(c) This envelope shall be sealed and endorsed by the words, "rejected absentee ballots," numbered ~~vvvv~~ and shall put on it the number of the absentee ballots given according to the registrar or city clerk's certificate.~~

~~(b) There shall be a separate enclosing envelope for the absentee ballots rejected, and the envelopes shall be placed in an envelope together with other ballots, and shall not be opened without a court order.~~

Section 38. Section 23-3713, R.C.M. 1947, is amended to read as follows:

"23-3713. Envelopes containing ballots -- deposit in

box and rejection of ballot. (1) While the polls are open on election day, the election judges shall first open the outer envelope only, and compare the signature of the voter on the application and on the affirmation.

(2) If the election judges find that the signatures correspond, that the affirmation is sufficient, and that the absentee elector is qualified and has not yet voted, they shall open the absentee voter's envelope and take out the ballot or ballots and, without unfolding ~~it~~ ~~them~~ or permitting ~~it~~ ~~them~~ to be examined, ascertain whether the ~~stub is stubs~~ stubs are still attached and whether the ~~number~~ numbers correspond to the ~~number~~ numbers in the certificate of the registrar or city clerk.

(3) If so, they shall endorse ~~it~~ the ballots the same way that other ballots are endorsed, detach the ~~stub stubs~~, deposit the ballots in the proper ballot boxes, and make entries in their election records to show the elector has voted.

(4) If the affirmation is found defective, the numbers do not correspond, or the voter is unqualified, the election judges, without opening the absentee ballot, shall mark across the face of it "rejected as defective" or "rejected as not an elector."

(5) The absentee ballot envelope, when it has been voted ~~or rejected~~, shall be deposited in the ballot box

1 containing the general or party ballots, and shall be
2 retained and preserved in the manner provided for official
3 ballots.

4 (6) If, upon opening the absentee ballot envelope, it
5 is found that the stub of any ballot has been detached, or
6 that the number does not correspond to the number on the
7 certificate of the registrar or clerk, the ballot shall be
8 rejected. It shall be marked on back as "rejected for
9", filling the blank with the reason. This statement
10 shall be dated and signed by a majority of the election
11 judges.

12 (7) The rejected ballots, together with the absentee
13 ballot envelope bearing the application, shall be enclosed
14 in an envelope, sealed, and the judges shall write on the
15 envelope, "rejected ballot of absentee voter" (writing in
16 the elector's name). "The rejected ballot(s) is (are)
17"

18 (8) The election judges shall designate the rejected
19 ballot as "general ballot," if it is a ballot for
20 candidates ~~that are rejected~~.

21 (9) If the rejected ballot is on a question submitted
22 to the vote of the electors, the judges shall designate it
23 as ballot question No. ~~in the certificate~~ on the
24 envelope.

25 (10) A separate enclosing envelope shall be used for

1 each absentee ballot rejected. This envelope shall be
2 placed in the envelope in which the other ballots voted are
3 required to be placed and shall not be opened without a
4 court order.

5 (11) The registrar or clerk shall provide and deliver
6 to the election judges suitable envelopes for enclosing
7 rejected absentee ballots."

8 Section 39. Section 23-3715, R.C.M. 1947, is amended
9 to read as follows:

10 "23-3715. Opening of envelopes after deposit. If an
11 envelope containing an absentee ballot has been deposited
12 unopened in the ballot box and the envelope has not been
13 marked rejected, the envelope shall be opened without a
14 court order and the ballot cast."

15 Section 40. Section 23-3801, R.C.M. 1947, is amended
16 to read as follows:

17 "23-3801. Voting machines -- secretary of state. (1)
18 Before any voting machine can be used, the secretary of
19 state shall:

20 (a) ~~Examine~~ examine the machine to determine if it
21 complies with the requirements of ~~sections~~ 23-3801 through
22 ~~23-3822 23-3819 and 23-3822~~;

23 (b) ~~within thirty~~ within 30 days after examining a
24 machine, file a report in his office on each machine
25 examined;

(c) ~~within five--~~ within 5 days after filing the report, transmit to the commissioners, city council, or other board having control of elections in each county or city a list of the machines approved.

(2) A machine shall not be used unless approved by the secretary of state ~~sixty~~ sixty days or more prior to the election.

(3) The secretary of state may employ and compensate qualified mechanics who are electors to assist him in duties required by this chapter ~~and compensate them~~.

(4) The person or company submitting a machine for examination before the filing of the report shall pay the compensation and expenses of mechanics connected with the examination to the secretary of state for deposit in the state general fund."

Section 41. Section 23-3807, R.C.M. 1947, is amended to read as follows:

"23-3807. Registrar to instruct election judges. (1) Before each election, the registrar shall instruct all election judges in the use of the machine and their duties. He shall give to each election judge ~~that who~~ who has received instruction, and is fully qualified to conduct the election with the machine, a certificate to that effect.

(2) The registrar shall call meetings of the election judges as necessary for instruction. Election judges shall

attend meetings as necessary to receive the proper instructions.

(3) An election judge ~~shall~~ may not serve if voting machines are used unless he has received instruction, is fully qualified to perform duties in connection with the machine, and has received a certificate to that effect from the ~~custodian~~ registrar. However, this ~~shall~~ section does not prevent an emergency appointment of an election judge."

Section 42. Section 23-3822, R.C.M. 1947, is amended to read as follows:

"23-3822. ~~Applicability of General~~ General election laws in ~~general where not in conflict with this chapter to apply.~~ All laws applicable to elections where voting is not done by machine, and all penalties prescribed for violations of those laws, apply to elections and precincts where voting machines are used if they are not in conflict with the provisions of ~~sections 23-3801 through 23-3821~~ 23-3819."

Section 43. Section 23-3905, R.C.M. 1947, is amended to read as follows:

"23-3905. Procedure upon closing polls. (1) In precincts where an electronic voting system is used, as soon as the polls are closed, the election judges shall secure the marking devices against further voting. They shall thereafter open the ballot box and count the number of ballots or envelopes containing ballots that have been cast

1 to determine that the number of ballots does not exceed the
 2 number of voters shown on the poll or registry lists. If
 3 there is an excess, this fact shall be reported in writing
 4 to the appropriate election officer in charge with the
 5 reasons therefor, if known. The total number of voters shall
 6 be entered on the tally sheets. The election judges shall
 7 thereupon count the write-in votes and prepare a return of
 8 such votes on forms provided for this purpose. If ballot
 9 cards are used, all ballots on which write-in votes have
 10 been recorded shall be serially numbered, starting with the
 11 number one, and the same number shall be placed on the
 12 ballot card of the voter. The ~~inspectors--ex--other~~
 13 ~~appropriate-precinct~~ election ~~officiate~~ judges shall compare
 14 the write-in votes with the votes cast on the ballot card,
 15 and if the total number of votes for any office exceeds the
 16 number allowed by law, a notation to that effect shall be
 17 entered on the back of the ballot card and ~~its~~ it shall be
 18 returned to the counting location in an envelope marked
 19 "defective ballots", ~~and such~~ such invalid votes shall ~~may~~
 20 not be counted. So far as applicable, provisions relating to
 21 defective paper ballots shall apply.

22 (2) The election judges shall place all ballots that
 23 have been cast in the container provided for that purpose,
 24 which shall be sealed and delivered ~~forthwith~~ immediately by
 25 the election judges to the counting location or other

1 designated place, together with the unused, void, and
 2 defective ballots and returns.

3 (3) All proceedings at the counting location shall be
 4 under the direction of the registrar or city clerk under the
 5 observation of at least three election judges designated by
 6 the commissioners or city council and shall be open to the
 7 public, but no persons except those employed and authorized
 8 for the purpose shall ~~may~~ touch any ballot, ballot
 9 container, or return. If any ballot is damaged or defective
 10 so that it cannot properly be counted by the automatic
 11 tabulating equipment, a true duplicate copy shall be made of
 12 the damaged ballot in the presence of witnesses and
 13 substituted for the damaged ballot. Likewise, a duplicate
 14 ballot shall be made of a defective ballot which shall ~~may~~
 15 not include the invalid votes. All duplicate ballots shall
 16 be clearly labeled "duplicate", shall bear a serial number
 17 which shall be recorded on the damaged or defective ballot,
 18 and shall be counted in lieu of the damaged or defective
 19 ballot.

20 (4) The return printed by the automatic tabulating
 21 equipment, to which has been added the return of write-in
 22 and absentee votes, shall constitute the official return of
 23 each precinct or election district. Upon completion of the
 24 count the returns shall be open to the public."

25 Section 44. Section 23-4011, P.C.M. 1947, is amended

to read as follows:

"23-4011. ~~Canvass County canvass~~ to be public --
necessentials to be disregarded ~~in counting returns~~. (1) The
canvass shall be public. It shall proceed by opening the
returns, ~~and~~ determining the vote for each person and each
proposition from each precinct, ~~and a declaration of~~
declaring the results.

(2) The returns shall not be rejected ~~if they do not~~
BECAUSE OF FAILURE TO show who administered the oath to the
election judges or clerks, ~~because of~~ failure to complete
all the certificates in the pollbooks, or ~~because of~~ failure
of any other act making up the returns that is not essential
to determine for whom the votes were cast."

Section 45. Section 23-4013, R.C.M. 1947, is amended
to read as follows:

"23-4013. Declaration of persons elected ~~certifying~~
~~tie~~. (1) The board shall declare elected the persons having
the highest number of votes given for each ~~office to be~~
~~called in a single county or subdivision of a county county~~
and district office voted for in only one county, other than
A LEGISLATOR OR A judge of the district court and each
precinct office.

(2) If a recount shows that two ~~(2)~~ or more persons
received an equal and sufficient number of votes for the
office of state senator or state representative, the county

recount board shall certify this to the governor."

Section 46. Section 23-4014, R.C.M. 1947, is amended
to read as follows:

"23-4014. Certificates issued by the clerk. (1) The
clerk shall immediately deliver to each person declared
elected by the board a certificate of election signed by him
and authenticated with the seal of the board.

(2) The certificate shall state that the official bond
must be filed within ~~thirty~~ ~~(30)~~ days after notice of
election or appointment and that failure to file the bond
vacates the office.

~~(3) This certificate shall not be issued to persons~~
~~elected district judge.~~"

Section 47. Section 23-4015, R.C.M. 1947, is amended
to read as follows:

"23-4015. State returns, how made and transmitted. (1)
After a general or special election, the clerk shall make an
abstract of the vote for ~~members of the legislative~~
~~assembly, for officers elected in the state at large, and~~
~~for judicial officers other than justices of the peace~~
congressional offices, state or district offices voted for
in more than one county, members of the legislature, and
judges of the district court.

(2) The clerk shall seal the abstract, endorse it
"Election Returns," and immediately send it to the

1 secretary of state by certified or registered mail."

2 Section 48. Section 23-4103, R.C.M. 1947, is amended
3 to read as follows:

4 "23-4103. Conditions under which recount to be made. A
5 recount shall be made under any of the following
6 conditions:

7 (1) If a candidate ~~other than for the office of~~
8 ~~district judge for a county or district office voted for in~~
9 ~~only one county, other than a legislator or a judge of the~~
10 ~~district court, or a precinct office~~ is defeated by a margin
11 not exceeding ~~one-fourth of one per cent (1/4 of 1%)~~ of the
12 total votes cast or by a margin not exceeding ~~ten (10)~~
13 votes, whichever is greater, he may within ~~five (5)~~ days
14 after the official canvass file with the registrar a
15 verified petition stating he believes a recount will change
16 the result and a recount of the votes for the office or
17 nomination should be had.

18 (2) If a candidate ~~is defeated for the office of~~
19 ~~district judge or an office voted on in more than one (1)~~
20 ~~county for a congressional office, a state or district~~
21 ~~office voted on in more than one county, the legislature, or~~
22 ~~judge of the district court is defeated~~ by a margin not
23 exceeding ~~one-fourth of one per cent (1/4 of 1%)~~ of the
24 total votes cast for all candidates for the same position,
25 he may within ~~five (5)~~ days after the official canvass file

1 a petition with the secretary of state as set forth in
2 subsection (1) ~~of this section~~. The secretary of state shall
3 immediately notify each registrar whose county includes any
4 precincts which voted for the same office by certified or
5 registered mail, and a recount shall be conducted in those
6 precincts.

7 (3) If a question submitted to the vote of the people
8 of the state is decided by a margin not exceeding ~~one-fourth~~
9 ~~of one per cent (1/4 of 1%)~~ of the total votes cast for and
10 against the question, a petition as set forth in subsection
11 (1) ~~of this section~~ may be filed with the secretary of
12 state. This petition shall:

13 ~~(a) be~~ be signed by not less than ~~one hundred (100)~~
14 electors of the state representing at least five ~~(5)~~
15 counties of the state and ~~be~~ filed within ~~five (5)~~ days
16 after the official canvass.

17 ~~(b) (4)~~ (4) The secretary of state shall immediately notify
18 each registrar by certified or registered mail of the filing
19 of the petition, and a recount shall be conducted in all
20 precincts in each county.

21 ~~(4) (5)~~ (5) If there is a tie vote, the board making the
22 canvass shall certify the vote ~~to the registrar if the~~
23 ~~election took place only in one (1) county and to the~~
24 ~~secretary of state for other elections. The registrar or~~
25 ~~secretary of state shall proceed as if a petition for~~

~~recount had been filed under this act. If a tie exists after the recount, the tie shall be resolved as provided by law:~~

(a) to the registrar, if the election was for a county or district office voted on in only one county, other than a legislator or a judge of the district court, or a precinct office or a ballot issue voted on in only one county;

(b) to the secretary of state, if the election was for a congressional office, a state or district office voted on in more than one county, the legislature, or judge of the district court or a ballot issue voted on in more than one county.

(6) When a tie has been certified to the registrar or secretary of state, as provided in subsection (5), he shall proceed as if a petition for a recount has been filed. If a tie exists after the recount, the tie shall be resolved as provided by law."

Section 49. Section 23-4117, R.C.M. 1947, is amended to read as follows:

~~"23-4117. Certification of recount results--transmittal to secretary of state--corrected abstract of votes--new certificate of election or nomination Procedure after recount. (1) Immediately after the recount the county recount board shall certify the result.~~

~~(2) At least two (2) members of the board shall sign the certificate, and it shall be attested to under seal by~~

the registrar.

(3) The certificate shall set forth in substance the proceedings of the board and appearance of any candidates or representatives, and it shall adequately designate each precinct recounted, the vote of each precinct according to the official canvass previously made, the nomination, position, or question involved, and the correct vote of each precinct as determined by the recount.

(4) When the certificate relates to a recount for ~~an office, nomination, position, or question voted upon in more than one (1) county or for judge of the district court a congressional office, a state or district office voted on in more than one county, a legislative office, or an office of judge of the district court or a ballot issue voted on in more than one county,~~ the certificate shall be made in duplicate. One ~~(4)~~ copy shall be transmitted immediately to the secretary of state by certified or registered mail.

(5) ~~(a) If the recount relates to an office, nomination, position, or question voted upon in only one (1) county, or part of a single county a county or district office voted for in only one county, other than a legislator or a judge of the district court, or a precinct office or a ballot issue voted on in only one county,~~ the county recount board shall immediately recanvass the returns as corrected by the certificate showing the result of the recount and

1 make a corrected abstract of the votes.

2 ~~(a)~~(b) If the corrected abstract shows no change in
3 the result, no further action ~~shall need~~ be taken.

4 ~~(b)~~(c) If there is a change in the result, a new
5 certificate of election or nomination shall be issued to
6 each candidate found to be elected or nominated."

7 Section 50. Section 23-4121, R.C.M. 1947, is amended
8 to read as follows:

9 "23-4121. Procedure upon tie vote for state executive
10 officers -- county officers other than county commissioner
11 -- ~~township officers~~ -- commissioners. (1) If there is a tie
12 vote for governor, and lieutenant governor, secretary of
13 state, attorney general, state auditor, ~~state--treasurer,~~
14 clerk of the supreme court, superintendent of public
15 instruction, or any other state executive officer, the
16 ~~legislative--assembly~~ legislature, at its next regular
17 session, shall elect a person to fill the office by joint
18 ballot of the two ~~(2)~~ houses.

19 (2) If there is a tie vote for clerk of the district
20 court, county attorney, or any county officer, except county
21 commissioner, ~~or for a township officer,~~ the commissioners
22 shall appoint an eligible person as in case of other
23 vacancies in the office.

24 (3) If there is a tie vote for commissioner, the
25 senior district judge shall appoint an eligible person to

1 fill the office as in other cases of vacancy.

2 (4) If there is a tie vote for state officers, the
3 secretary of state shall transmit a certified copy of the
4 statement to the ~~legislative--assembly~~ legislature showing
5 the votes cast for the two ~~(2)~~ or more persons having an
6 equal and the highest number of votes."

7 Section 51. Section 23-4401, R.C.M. 1947, is amended
8 to read as follows:

9 "23-4401. Election of United States senators and
10 representatives -- ~~for full term and to fill vacancies.~~ (1)
11 United States senators and representatives shall be elected
12 at the general election preceding commencement of the term
13 to be filled.

14 ~~(2) If a vacancy occurs for senator, or United States~~
15 ~~representative, an election to fill the vacancy shall be~~
16 ~~held at the next general election. If an election is invalid~~
17 ~~or not held at that time, the election shall be at the~~
18 ~~second succeeding general election.~~

19 ~~(3)~~(2) Nominations and elections shall be as provided
20 by law for governor."

21 Section 52. Section 23-4402, R.C.M. 1947, is amended
22 to read as follows:

23 "23-4402. ~~Writs of election to fill vacancy~~ Vacancy in
24 office of United States senator. (1) If a vacancy occurs in
25 the office of United States senator ~~or representative,~~ the

~~governor shall issue a writ of election to fill the vacancy,
an election to fill the vacancy shall be held at the next
general election. If the election is invalid or not held at
that time, the election to fill the vacancy shall be held at
the next succeeding general election.~~

(2) The governor may make a temporary appointment to
fill the vacancy until the election."

Section 53. There is a new R.C.M. section that reads
as follows:

Vacancy in the office of United States representative.

(1) Whenever a vacancy occurs in the office of United States
representative, the governor shall immediately issue a writ
of election to fill the vacancy.

(2) The election to fill the vacancy shall be held
within 3 months from the time the vacancy occurs.

Section 54. Section 23-4737, R.C.M. 1947, is amended
to read as follows:

"23-4737. Payments in name of undisclosed principal.
No person shall ~~may~~ make a payment of his own money or of
another ~~persons~~ person's money to any other person in
connection with a nomination or election in any other name
than that of the person who in truth supplies such money;
~~nor shall any.~~ No person may knowingly receive such payment,
or enter, or cause the same to be entered, in his accounts
or records in another name than that of the person by whom

it was actually furnished; provided, if the money ~~he~~ is
received from the treasurer of any political ~~organization~~
~~committee~~, it ~~shall be~~ is sufficient to enter the same as
received from ~~said the~~ treasurer."

Section 55. Section 23-4757, R.C.M. 1947, is amended
to read as follows:

"23-4757. Forfeiture of nomination or office for
violation of law, when not worked. ~~Where~~ If, upon the trial
of any action or proceeding under the provisions of ~~this act~~
~~for the Title 23 or Title 37 to contest of~~ the right of any
person to be declared nominated or elected to any office, or
to annul or set aside such nomination or election, or to
remove a person from his office, it appears from the
evidence that the offense complained of was not committed by
the candidate, or with his knowledge or consent, or was
committed without his sanction or connivance, and that all
reasonable means for preventing the commission of such
offense at such election were taken by and on behalf of the
candidate; ~~or~~ or that the offense or offenses complained of
were trivial, unimportant, and limited in character, and
that in all other respects his participation in the election
was free from such offenses or illegal acts; or that any
act or omission of the candidate arose from inadvertence or
from accidental miscalculation, or from some other
reasonable cause of a like nature, and in any case did not

1 arise from any want of good faith; and under the
2 circumstances it seems to the court to be unjust that the
3 said candidate ~~shall~~ forfeit his nomination or office, or be
4 deprived of any office of which he is the incumbent, then
5 the nomination or election of ~~such the~~ candidate ~~shall~~ is
6 not by reason of such offense or omission complained of be
7 void, nor ~~shall~~ may the candidate be removed from or
8 deprived of his office."

9 Section 56. Section 23-4758, R.C.M. 1947, is amended
10 to read as follows:

11 "23-4758. Punishment ~~for violation of act~~. If, upon
12 the trial of any action or proceeding under the provisions
13 of ~~this act, for the contesting of Title 23 or Title 37 to~~
14 contest the right of any person to be declared to be
15 nominated to an office, or elected to an office, or to annul
16 and set aside such election, or to remove any person from
17 his office, it ~~shall appear~~ appears that such person was
18 guilty of any corrupt practice, illegal act, or undue
19 influence, in or about such nomination or election, he shall
20 be punished by being deprived of the nomination or office,
21 as the case may be, and the vacancy therein shall be filled
22 in the manner provided by law. The only ~~exception~~ exceptions
23 to this judgment shall be ~~that those~~ provided in the
24 ~~preceding section of this act 23-4757~~. Such judgment ~~shall~~
25 does not prevent the candidate or officer from being

1 proceeded against by indictment or criminal information for
2 any such act or acts."

3 Section 57. Section 23-4759, R.C.M. 1947, is amended
4 to read as follows:

5 "23-4759. Time for commencing contest. Any action to
6 contest the right of any person to be declared elected to an
7 office, or to annul and set aside such election, or to
8 remove from or deprive any person of an office of which he
9 is the incumbent, for any offense mentioned in ~~this act~~
10 Title 23 or Title 37, must, unless a different time be
11 stated, be commenced within ~~forty days~~ 1 year after the
12 return day of the election at which such offense was
13 committed, ~~unless the ground of the action or proceeding is~~
14 ~~for the illegal payment of money or other valuable thing~~
15 ~~subsequent to the filing of the statement prescribed by~~
16 ~~this act, in which case the action or proceeding may be~~
17 ~~commenced within forty days after the discovery by the~~
18 ~~complainant of such illegal payment, a contest of the~~
19 ~~nomination or office of governor or representative or~~
20 ~~senator in congress must be commenced within twenty days~~
21 ~~after the declaration of the result of the election, but~~
22 ~~this shall not be construed to apply to any contest before~~
23 ~~the legislative assembly.~~"

24 Section 58. Section 23-4760, R.C.M. 1947, is amended
25 to read as follows:

"23-4760. Court having jurisdiction of proceedings. An application for filing a statement, payment of a claim, or correction of an error or false recital in a filed statement ~~filed~~, or an action or proceeding to annul and set aside the election of any person declared elected to an office, or to remove or deprive any person of his office for an offense mentioned in ~~this act~~, Title 23 or Title 37 or any petition to excuse any person or candidate in accordance with the power of the court to excuse, as provided in ~~section~~ 23-4757, must be made or filed in the district court of the county in which the certificate of his nomination as a candidate for the office to which he is declared nominated or elected is filed, or in which the incumbent resides."

Section 59. Section 23-4763, R.C.M. 1947, is amended to read as follows:

"23-4763. Grounds for contest of nomination or office. ~~Any~~ An elector of the state, or of any political or municipal division thereof, may contest the right of any person to any nomination or office for which ~~each~~ the elector has the right to vote, for any of the following causes:

4. (1) ~~On~~ on the ground of a deliberate, serious, and material violation of any ~~of the provisions of this act, or of any other~~ provision of the law relating to nominations or elections;

4. (2) ~~then whenever~~ the person whose right ~~was~~ is contested was not, at the time of the election, eligible to such office;

4. (3) ~~On~~ on account of illegal votes or an erroneous or fraudulent count or canvass of votes."

Section 60. Section 23-4767, R.C.M. 1947, is amended to read as follows:

"23-4767. Hearing of contest. The petitioner (contestant) and the contestee may appear and produce evidence at the hearing, but no person, other than the petitioner and contestee, ~~shall~~ may be made a party to the proceedings on such petition; and no person, other than ~~said~~ the parties and their attorneys, ~~shall~~ may be heard thereon, except by order of the court. If more than one petition is pending, or the election of more than one person is contested, the court may, in its discretion, order the cases to be heard together, and may apportion the costs, disbursements, and attorney's fees between them, and shall finally determine all questions of law and fact, save only that the judge may, in his discretion, impanel a jury to decide on questions of fact. ~~In the case of a contested nomination or election for senator or representative in the legislative assembly, or for senator or representative in congress, the court shall forthwith certify its findings to the Secretary of State to be by him transmitted to the~~

~~presiding officer of the body in question.~~ In the case of
~~other nominations or elections, other than for federal~~
~~congressional offices,~~ the court shall ~~forthwith immediately~~
 certify its decision to the board or official issuing
 certificates of nomination or election, ~~which and the~~ board
 or official shall thereupon issue certificates of nomination
 or election to the person or persons entitled thereto by
 such ~~the court's~~ decision. If judgment of ouster against a
 defendant ~~shall be~~ is rendered, ~~said judgment shall award~~
~~the nomination or office to the person receiving next the~~
~~highest number of votes, unless it shall be further~~
~~determined in the action, upon appropriate pleading and~~
~~proof by the defendant, that some act has been done or~~
~~committed which would have been ground in a similar action~~
~~against such person, had he received the highest number of~~
~~votes for such nomination or office, for a judgment of~~
~~ouster against him; and if it shall be so determined at the~~
~~trial,~~ the nomination or office shall be by the judgment
 declared vacant, except as provided in 23-4762, and shall
 thereupon be filled by a new election, or by appointment, as
 may be provided by law regarding vacancies in such
 nomination or office."

Section 61. Section 23-4770, E.C.M. 1947, is amended
 to read as follows:

"23-4770. Advancement of cases -- dismissal, ~~when~~ --

privileges of witnesses. Proceedings under ~~this act~~ Title 23
 of Title 37 shall be advanced on the docket upon request of
 either party for speedy trial, but the court may postpone or
 continue such ~~the~~ trial if ~~the ends of justice may be~~
~~thereby more effectually secured necessary,~~ and in case of
 such continuance or postponement, the court may impose costs
 in its discretion as a condition thereof. No petition ~~shall~~
~~may~~ be dismissed without the consent of the county attorney,
 unless the same ~~shall be~~ is dismissed by the court. No
 person ~~shall may~~ be excused from testifying or producing
 papers or documents on the ground that his testimony or the
 production of papers or documents will tend to criminate
 him; but no admission, evidence, or paper made or advanced
 or produced by such person shall or any evidence that is the
direct result of such evidence or information that he may
~~have so given may~~ be offered or used against him in any
 civil or criminal prosecution, ~~or any evidence that is the~~
~~direct result of such evidence or information that he may~~
~~have so given,~~ except in a prosecution for perjury committed
 in such testimony."

Section 62. Section 23-4765, E.C.M. 1947, is amended
 to read as follows:

"23-4765. ~~Commissioner~~ ~~how~~ appointed,
 qualifications, and offices Creation of office. (1) There is
~~hereby created the position of a~~ commissioner of campaign

finances and practices, who shall be appointed by a majority of a ~~four-(4)-member~~ four-member selection committee which shall be comprised of the speaker of the house, the president of the senate, and the minority floor leaders of both houses of the Montana legislature. However, if a majority of the members of the selection committee cannot agree upon the selection of a commissioner within ~~thirty~~ (30) days after ~~the passage and approval of this act a~~ vacancy occurs or a term expires, the Montana supreme court shall appoint a fifth public member to the selection committee. The majority of the five ~~(5)~~ members of the selection committee shall then select the commissioner.

(2) The individual selected to serve as the commissioner of campaign finances and practices shall be appointed for a ~~five-(5)-year~~ 5-year term, but he ~~shall be~~ is thereafter be ineligible to serve as the commissioner of campaign finances and practices and ~~shall be~~ is precluded from being a candidate for public office as defined in this act for a period of ~~five-(5)~~ years from the time that his term as commissioner expires.

(3) If for any reason a vacancy should occur in the position of commissioner, a successor shall be appointed within ~~thirty~~ (30) days as provided in subsection (1) to serve out the unexpired term. An individual who is selected to serve out the unexpired term of a preceding commissioner

~~shall be~~ is entitled to be reappointed for a ~~five-(5)-year~~ 5-year term as provided in subsection (1).

(4) The commissioner may be removed from office by impeachment as provided in ~~sections~~ sections 95-2801 and 95-2802, ~~R.C.M., 1947~~. He may also be prosecuted by the appropriate county attorney for official misconduct as specified in ~~section~~ section 94-7-401, ~~R.C.M., 1947~~.

(5) The commissioner of campaign finances and practices ~~shall receive~~ is entitled to an annual salary of ~~twenty-one thousand dollars (\$21,000)~~, and the salary commission may recommend salary increases to the legislature.

(6) The office of the commissioner ~~shall be~~ is attached to the office of the secretary of state for administrative purposes only, as specified in ~~section~~ section 82A-108, except that the provisions of subsections (1) (b), (1) (c), (2) (a), (2) (b), (2) (d), (2) (e), and (3) (a) of ~~section~~ section 82A-108, ~~R.C.M., 1947~~, do not apply."

Section 63. Section 23-4766, R.C.L. 1947, is amended to read as follows:

"23-4766. Powers and duties of the commissioner. The ~~commissioner shall exercise the following powers and perform the following duties:~~

(1) The commissioner of campaign finances and practices shall be responsible for investigating all of the

1 alleged violations of the election laws contained in Title
2 23, ~~R.C.M.--1947~~, or Title 37 and shall in conjunction with
3 the county attorneys, be responsible for enforcing all of
4 the state's election laws.

5 (2) The commissioner shall select an appropriate staff
6 to enforce the provisions of Title 23, ~~R.C.M.--1947~~ and Title
7 37, and he ~~shall have the power to~~ may hire and fire all
8 personnel under his supervision.

9 (3) The commissioner may hire or retain attorneys who
10 are properly licensed to practice before the supreme court
11 of the state of Montana to prosecute violations of Title 23,
12 ~~R.C.M.--1947~~ or Title 37. Any properly licensed attorney so
13 retained or hired shall exercise the powers of a special
14 attorney general, and he ~~shall have the power to~~ may
15 prosecute, subject to the control and supervision of the
16 commissioner and the provisions of ~~section 23-4768~~, any
17 criminal or civil action arising out of a violation of any
18 provision of Title 23, ~~R.C.M.--1947~~ or Title 37. All
19 prosecutions shall be brought in the state district court
20 for the county in which a violation has occurred or in the
21 district court for Lewis and Clark County. The authority to
22 prosecute as prescribed by this section includes the
23 authority to:

24 (a) institute proceedings for the arrest of persons
25 charged with or reasonably suspected of criminal violations

1 of Title 23, ~~R.C.M.--1947~~ or Title 37;

2 (b) attend and give advice to a grand jury when cases
3 involving criminal violations of Title 23, ~~R.C.M.--1947~~, or
4 Title 37 are presented;

5 (c) draw and file indictments, informations, and
6 criminal complaints;

7 (d) prosecute all actions for the recovery of debts,
8 fines, penalties, ~~and~~ or forfeitures accruing to the state
9 or county from persons convicted of violating Title 23,
10 ~~R.C.M.--1947~~ or Title 37; and

11 (e) do any other act necessary to successfully
12 prosecute a violation of any provision of Title 23, ~~R.C.M.--~~
13 1947 or Title 37.

14 (4) The commissioner shall prescribe forms for
15 statements and other information required to be filed
16 pursuant to Title 23, ~~R.C.M.--1947~~, or Title 37 and furnish
17 forms and appropriate information to persons required to
18 file statements and information.

19 (5) The commissioner shall prepare and publish a
20 manual prescribing a uniform system for accounts for use by
21 persons required to file statements pursuant to Title 23,
22 ~~R.C.M.--1947~~ or Title 37.

23 (6) The commissioner shall accept and file any
24 information voluntarily supplied that exceeds the
25 requirements of Title 23, ~~R.C.M.--1947~~ or Title 37.

(7) The commissioner shall prescribe the manner in which the county clerks and recorders shall receive, file, collate, and maintain reports filed with them under Title 23, ~~R.C.M., 1947~~ or Title 37.

(8) The commissioner shall make statements and other information filed with his office available for public inspection and copying during regular office hours, and make copying facilities available free of charge or at a charge not to exceed actual cost.

(9) The commissioner shall preserve statements and other information filed with his office for a period of ~~ten~~ 40 years from date of receipt.

(10) The commissioner shall prepare and publish summaries of the statements received.

(11) The commissioner shall prepare and publish such other reports as he ~~may deem~~ considers appropriate.

(12) The commissioner shall provide for wide public dissemination of summaries and reports.

(13) The commissioner ~~shall have the authority to~~ may investigate all statements filed pursuant to the provisions of Title 23, ~~R.C.M., 1947~~ or Title 37 and shall also investigate alleged failures to file any statement or the alleged falsification of any statement filed pursuant to the provisions of Title 23, ~~R.C.M., 1947~~ or Title 37. Upon the submission of a written complaint by any individual, the

commissioner shall also investigate any other alleged violation of the provisions of Title 23, ~~R.C.M., 1947~~ or Title 37 or any rule ~~or regulation~~ adopted pursuant thereto.

(14) The commissioner shall promulgate and publish rules ~~and regulations~~ to carry out the provisions of Title 23, ~~R.C.M., 1947~~ or Title 37 and shall promulgate such rules in conformance with the Montana Administrative Procedure Act.

(15) The commissioner shall at the close of each fiscal year report to the legislature and the governor concerning the action he has taken, including the names, salaries, and duties of all individuals in his employ and the money he has disbursed. The commissioner shall also make further reports on the matters within his jurisdiction as the legislature may prescribe and shall also make recommendations for further legislation as may appear desirable.

(16) The commissioner shall be responsible for preparing, administering, and allocating the budget for his office.

(17) The commissioner ~~shall have the power to~~ may inspect any records, accounts, or books that must be kept pursuant to the provisions of Title 23, ~~R.C.M., 1947~~ or Title 37, which are held by any political committee or candidate so long as such inspection is made during reasonable office hours.

(18) The commissioner ~~shall have the power to~~ may issue orders of noncompliance as prescribed by ~~section~~ 23-4787.

(19) The commissioner ~~shall~~ may exercise all of the powers conferred upon him by ~~this act or any other provision of state law~~ in any jurisdiction or political subdivision of the state.

(20) After receiving the final campaign contribution and expenditure report filed as required by Title 23, ~~R.C.M., 1947,~~ the commissioner shall inform the secretary of state, or the city or county clerk and recorder that each candidate who has been properly elected to any public office has filed his final contribution and expenditure report as specified in ~~section~~ 23-4778.

(21) The commissioner ~~shall have the authority to~~ may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, bank account statements of a political committee or candidate, or other records which are relevant or material for the purpose of conducting any investigation pursuant to the provisions of Title 23, ~~R.C.M., 1947~~ or Title 37."

Section 64. Section 23-4787, R.C.M. 1947, is amended to read as follows:

"23-4787. ~~Examination~~ Inspection of statements and issuance of orders of noncompliance. (1) Each statement

filed with the commissioner during an election or within ~~sixty-(60)~~ days thereafter shall be inspected within ~~ten~~ (10) days after the date upon which the statement is filed. If a person has not satisfied the provisions of Title 23, ~~R.C.M., 1947,~~ or Title 37, the commissioner shall immediately notify ~~a~~ the person of the noncompliance. Such an order of noncompliance shall be issued when:

(a) upon examination of the official ballot, it appears that the person has failed to file a statement as required by law or that a statement filed by a person does not conform to law; or

(b) it is determined that a statement filed with the commissioner does not conform to the requirements of Title 23, ~~R.C.M., 1947~~ or Title 37, or that a person has failed to file a statement required by law.

(2) If an order of noncompliance is issued during a campaign period, or within ~~sixty-(60)~~ days after an election, a candidate or political committee shall submit the necessary information within five-(5) days after receiving the notice of noncompliance. Upon a failure to submit the required information within the time specified, the appropriate county attorney or the commissioner ~~shall have the authority to~~ may initiate a civil or criminal action pursuant to the procedures outlined in ~~section~~ 23-4788.

(3) If an order of noncompliance is issued during any other period than that described in subsection (2), a candidate or political committee shall submit the necessary information within ~~ten~~ (10) days after receiving the notice of noncompliance. Upon a failure to submit the required information within the time specified, the appropriate county attorney or the commissioner shall initiate a civil or criminal action pursuant to the procedures outlined in ~~section 23-4762~~.

(4) A candidate or political treasurer aggrieved by the issuance of an order of noncompliance may seek judicial review in the district court of the county in which the candidate resides or the county in which the political committee has its headquarters. All petitions for judicial review filed pursuant to this ~~act~~ section shall be expeditiously reviewed by the appropriate district court.

(5) Within ~~one hundred twenty~~ (120) days after the date of each election, the commissioner shall examine and compare each statement or report filed with the commissioner pursuant to the provisions of Title 23, ~~R.C.M. 1947, or~~ Title 37 to determine whether a statement or report conforms to the provisions of the law. The examination shall include a comparison of all reports and statements received by the commissioner pursuant to the requirements of Title 23, ~~R.C.M. 1947 or Title 37~~. The commissioner may investigate

the source and authenticity of any contribution or expenditure listed in any report or statement filed pursuant to Title 23, ~~R.C.M. 1947, or Title 37~~ or the alleged failure to report any contribution or expenditure required to be reported pursuant to Title 23, ~~R.C.M. 1947 or Title 37~~."

Section 65. Section 23-4768, R.C.M. 1947, is amended to read as follows:

"23-4768. ~~Prosecutions and powers of the~~ Consultation and cooperation with county attorney. (1) ~~When~~ Whenever the commissioner determines that there appears to be sufficient evidence to justify a civil or criminal prosecution as ~~specified in section 23-4793~~, he shall notify the county attorney of the county in which the alleged violation occurred and shall arrange to transmit to the county attorney all information relevant to the alleged violation. If the county attorney fails to initiate the appropriate civil or criminal action within ~~thirty~~ (30) days after he receives notification of the alleged violation, the commissioner may then initiate the appropriate legal action.

(2) A county attorney may at any time prior to the expiration of the ~~thirty~~ (30)-day 30-day time period specified in subsection (1), waive his right to prosecute and thereby authorize the commissioner to initiate the appropriate civil or criminal action as ~~specified in~~ section 23-4793.

(3) The provisions of subsection (1) do not apply to a situation in which the alleged violation has been committed by the county attorney of a county. In this instance, the commissioner is authorized to directly prosecute any alleged violation of Title 23, ~~R.C.M. 4547~~ or Title 37.

(4) If a prosecution is undertaken by the commissioner, all court costs associated with the prosecution shall be paid by the state of Montana, and all fines and forfeitures imposed pursuant to a prosecution by the commissioner shall be deposited in the state general fund.

(5) Nothing in this act ~~shall prevent~~ prevents a county attorney from inspecting any records, accounts, or books which must be kept pursuant to the provisions of Title 23, ~~R.C.M. 4547~~ or Title 37 that are held by any political committee or candidate involved in an election to be held within the county. However, such inspections must be conducted during reasonable office hours.

(6) A county attorney ~~shall have the authority to~~ may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, correspondence, memoranda, bank account statements of a political committee or candidate, or other records which are relevant or material for the purpose of conducting any investigation pursuant to the provisions

of Title 23, ~~R.C.M. 4547~~ or Title 37."

~~Section 66. Section 23-4794, R.C.M. 1947, is amended to read as follows:~~

~~"23-4794. Right to inspect current accounts and reports. Every individual shall have the right to inspect any report or current account that must be kept or filed pursuant to the provisions of Title 23, R.C.M. 1947 or Title 37, but only if such inspection will occur during reasonable office hours and in such a manner that normal office functions will not be unnecessarily interrupted.~~

Section 66. Section 23-4794, R.C.M. 1947, is amended to read as follows:

"23-4794. Secretary of state ~~may~~ to furnish copies of ~~this act~~ certain election laws to appropriate officials. The secretary of state shall, at the expense of the state, furnish the county clerk and the city and town clerks with copies of ~~title 23, chapter 47, R.C.M. 1947~~ the election laws relating to qualifications, campaign practices, campaign finances, and contests. The public official with whom a candidate files a declaration or certificate of nomination shall transmit ~~a copy of title 23, chapter 47, R.C.M. 1947,~~ one of these copies to the candidate. Such copies shall also be furnished to any other person required to file a statement. Upon his own information, or at the written request of any voter, the secretary of state shall provide a

(3) If an order of noncompliance is issued during any other period than that described in subsection (2), a candidate or political committee shall submit the necessary information within ~~ten~~ (10) days after receiving the notice of noncompliance. Upon a failure to submit the required information within the time specified, the appropriate county attorney or the commissioner shall initiate a civil or criminal action pursuant to the procedures outlined in ~~section~~ 23-4788.

(4) A candidate or political treasurer aggrieved by the issuance of an order of noncompliance may seek judicial review in the district court of the county in which the candidate resides or the county in which the political committee has its headquarters. All petitions for judicial review filed pursuant to this ~~act~~ section shall be expeditiously reviewed by the appropriate district court.

(5) Within ~~one hundred twenty~~ (120) days after the date of each election, the commissioner shall examine and compare each statement or report filed with the commissioner pursuant to the provisions of Title 23, ~~R.C.M. 1947, or~~ Title 37 to determine whether a statement or report conforms to the provisions of the law. The examination shall include a comparison of all reports and statements received by the commissioner pursuant to the requirements of Title 23, ~~R.C.M. 1947 or Title 37~~. The commissioner may investigate

the source and authenticity of any contribution or expenditure listed in any report or statement filed pursuant to Title 23, ~~R.C.M. 1947, or Title 37~~ or the alleged failure to report any contribution or expenditure required to be reported pursuant to Title 23, ~~R.C.M. 1947 or Title 37~~.

Section 65. Section 23-4788, R.C.M. 1947, is amended to read as follows:

"23-4788. ~~Prosecutions and powers of the~~ Consultation and cooperation with county attorney. (1) ~~When~~ Whenever the commissioner determines that there appears to be sufficient evidence to justify a civil or criminal prosecution ~~as specified in section 23-4793~~, he shall notify the county attorney of the county in which the alleged violation occurred and shall arrange to transmit to the county attorney all information relevant to the alleged violation. If the county attorney fails to initiate the appropriate civil or criminal action within ~~thirty~~ (30) days after he receives notification of the alleged violation, the commissioner may then initiate the appropriate legal action.

(2) A county attorney may at any time prior to the expiration of the ~~thirty~~ (30)-day 30-day time period specified in subsection (1), waive his right to prosecute and thereby authorize the commissioner to initiate the appropriate civil or criminal action ~~as specified in section 23-4793~~.

(3) The provisions of subsection (1) do not apply to a situation in which the alleged violation has been committed by the county attorney of a county. In this instance, the commissioner is authorized to directly prosecute any alleged violation of Title 23, ~~R.C.M. 1947~~ or Title 37.

(4) If a prosecution is undertaken by the commissioner, all court costs associated with the prosecution shall be paid by the state of Montana, and all fines and forfeitures imposed pursuant to a prosecution by the commissioner shall be deposited in the state general fund.

(5) Nothing in this act ~~shall prevent~~ prevents a county attorney from inspecting any records, accounts, or books which must be kept pursuant to the provisions of Title 23, ~~R.C.M. 1947~~, or Title 37 that are held by any political committee or candidate involved in an election to be held within the county. However, such inspections must be conducted during reasonable office hours.

(6) A county attorney ~~shall have the authority to~~ may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, correspondence, memoranda, bank account statements of a political committee or candidate, or other records which are relevant or material for the purpose of conducting any investigation pursuant to the provisions

of Title 23, ~~R.C.M. 1947~~ or Title 37."

~~Section 66. Section 23-4789, R.C.M. 1947, is amended to read as follows:~~

~~"23-4789. Right to inspect current accounts and reports. Every individual shall have the right to inspect any report or current account that must be kept or filed pursuant to the provisions of Title 23, R.C.M. 1947 or Title 37, but only if such inspection will occur during reasonable office hours and in such a manner that normal office functions will not be unnecessarily interrupted."~~

Section 66. Section 23-4794, R.C.M. 1947, is amended to read as follows:

"23-4794. Secretary of state must to furnish copies of this act certain election laws to appropriate officials. The secretary of state shall, at the expense of the state, furnish the county clerk and the city and town clerks with copies of Title 23, Chapter 47, ~~R.C.M. 1947~~ the election laws relating to penalties, campaign practices, campaign finances, and contests. The public official with whom a candidate files a declaration or certificate of nomination shall transmit ~~a copy of Title 23, Chapter 47, R.C.M. 1947~~ one of these copies to the candidate. Such copies shall also be furnished to any other person required to file a statement. Upon his own information, or at the written request of any voter, the secretary of state shall provide a

1 copy of ~~Title 23, Chapter 47, F.C.M. 1947~~, to any other
 2 individual who may be a candidate, or who may otherwise be
 3 required to make a statement required by ~~this act~~ Title 23
 4 or Title 37."

5 Section 67. Section 23-4795, R.C.M. 1947, is amended
 6 to read as follows:

7 "23-4795. Limitation on contributions. (1) Aggregate
 8 contributions for all elections in a campaign by an
 9 individual, other than the candidate, to a candidate and
 10 political committees organized on his behalf ~~other than the~~
 11 ~~candidate and his immediate family~~ are limited as follows:

12 (a) for candidates filed jointly for the office of
 13 governor and lieutenant governor, not to exceed ~~fifteen~~
 14 ~~hundred dollars~~ ~~(\$1,500)~~;

15 (b) for a candidate to be elected for state office in
 16 a statewide election, other than the candidates for governor
 17 and lieutenant governor, not to exceed ~~seven hundred fifty~~
 18 ~~dollars~~ ~~(\$750)~~;

19 (c) for a candidate for public service ~~commissioner~~
 20 ~~commissioner~~, not to exceed ~~four hundred dollars~~ ~~(\$400)~~;

21 (d) for a candidate for district court judge, not to
 22 exceed ~~three hundred dollars~~ ~~(\$300)~~;

23 (e) for a candidate for the legislature, not to exceed
 24 ~~two hundred fifty dollars~~ ~~(\$250)~~; and

25 (f) for a candidate for city or county office, not to

1 exceed ~~two hundred dollars~~ ~~(\$200)~~.

2 (2) An independent committee means a committee which
 3 is not organized on behalf of a candidate or which is not
 4 controlled either directly or indirectly by a candidate or
 5 candidate's committee, and which does not act jointly with a
 6 candidate or candidate's committee in conjunction with the
 7 making of expenditures or accepting contributions. For the
 8 purpose of limitation on contributions, political party
 9 organizations are independent committees. Aggregate
 10 contributions by an independent committee to a candidate and
 11 political committees organized on his behalf for all
 12 elections in a campaign are limited as follows:

13 (a) for candidates filed jointly for the offices of
 14 governor and lieutenant governor, not to exceed ~~eight~~
 15 ~~thousand dollars~~ ~~(\$8,000)~~;

16 (b) for a candidate to be elected for state office in
 17 a statewide election, other than the candidates for governor
 18 and lieutenant governor, not to exceed ~~two thousand~~
 19 ~~dollars~~ ~~(\$2,000)~~;

20 (c) for a candidate for public service commissioner,
 21 not to exceed ~~one thousand dollars~~ ~~(\$1,000)~~;

22 (d) for a candidate for district court judge, not to
 23 exceed ~~two hundred fifty dollars~~ ~~(\$250)~~;

24 (e) for a candidate for the legislature, not to exceed
 25 ~~two hundred fifty dollars~~ ~~(\$250)~~;

(f) for a candidate for city or county office, not to exceed two hundred dollars (\$200).

~~(3) (a) Aggregate contributions by a candidate and his immediate family to his own candidacy and committees organized on his behalf are limited for all elections in a campaign as follows:~~

~~(i) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed six thousand dollars (\$6,000);~~

~~(ii) for candidates filed jointly for the offices of governor and lieutenant governor, not to exceed nine thousand dollars (\$9,000) to both candidates combined;~~

~~(iii) for a candidate for state district office, including but not limited to candidates for the state senate, public service commission and district court judge, not to exceed one thousand dollars (\$1,000) in all elections in a campaign;~~

~~(iv) for candidates for the state house of representatives not to exceed five hundred dollars (\$500) in all elections in a campaign; and~~

~~(v) for a candidate for city or county office, not to exceed three hundred dollars (\$300) in all elections in a campaign.~~

~~(b) As used in this section, a candidate's immediate~~

~~family means the candidate's spouse, and the ascendants, descendants, brothers and sisters of the candidate and his spouse, and their spouses.~~

(4) The limitations imposed by this section do not apply to public funds contributed to a candidate under any public financing provision of this code."

Section 68. Section 37-101, R.C.M. 1947, is amended to read as follows:

"37-101. Form of petition for referendum. The following shall be substantially the form of petition for the referendum to the people on any act passed by the legislative assembly legislature of the state of Montana:

~~FORM OF PETITION~~

Any person signing any name other than his own to this petition, or signing the same more than once for the same measure at one election, or who is not, at the time of signing the same, a qualified elector of this state, is punishable by a fine ~~of~~ not exceeding five hundred dollars (\$500), or imprisonment in the penitentiary not exceeding two years, or by both such fine and imprisonment county jail for a term not to exceed 6 months, or both, or imprisonment in the state prison for a term not to exceed 10 years.

Petition for referendum.

To the Honorable ..., Secretary of State of the state of Montana:

1 We, the undersigned citizens and qualified electors of
 2 the state of Montana, respectfully order that Senate (House)
 3 Bill Number, entitled (title of act), passed by the
 4 ~~legislative--assembly~~ legislature of the state of
 5 Montana, at the regular (special) session of said
 6 ~~legislative--assembly~~, ~~shall the legislature~~ be referred to
 7 the people of the state for their approval or rejection, at
 8 the ~~regular~~, general, or special election to be held on the
 9 day of, 19..., and each for himself says: I have
 10 personally signed this petition; I am a qualified elector of
 11 the state of Montana; and my residence, post-office address,
 12 legislative representative district number, and voting
 13 precinct are correctly written after my name.

14 Name Residence
 15 Post-office address
 16 If in city, street and number
 17 Legislative representative district number
 18 Voting precinct

19 (Here follow numbered lines for signatures.)"

20 Section 69. Section 37-102, R.C.M. 1947, is amended to
 21 read as follows:

22 "37-102. Form of petition for initiative. (1) The
 23 following shall be substantially the form of petition for
 24 any law of the state of Montana proposed by the initiative:

25 ~~Warning~~ WARNING

1 Any person signing any name other than his own to this
 2 petition, or signing the same more than once for the same
 3 measure at one election, or who is not, at the time of
 4 signing the same, a qualified elector of this state, is
 5 punishable by a fine not exceeding ~~five--hundred--dollars~~
 6 ~~(\$500)~~, ~~or imprisonment in the penitentiary not exceeding~~
 7 ~~two years, or by both such fine and imprisonment~~ county jail
 8 for a term not to exceed 6 months, or both, or imprisonment
 9 in the state prison for a term not to exceed 10 years.

10 Petition for Initiative.

11 To the Honorable, Secretary of State of the ~~State~~
 12 state of Montana:

13 We, the undersigned qualified electors of the state of
 14 Montana, respectfully demand that the following proposed law
 15 ~~shall~~ be submitted to the qualified electors of the state of
 16 Montana, for their approval or rejection, at the ~~regular~~,
 17 general, or special election to be held on the day of
 18, 19..., and each for himself says:

19 I have personally signed this petition, and my
 20 residence, post-office address, legislative representative
 21 district, and voting precinct are correctly written after my
 22 name.

23 Name Residence.....
 24 Post-office address.....
 25 If in city, street and number.....

1 Legislative representative district.....
 2 Voting precinct.....

3 (Numbered lines for names on each sheet.)

4 (2) Every ~~such~~ sheet for petitioner's signature shall
 5 be attached to a full and correct copy of the title and text
 6 of the measure so proposed by initiative petition; but ~~such~~
 7 ~~the~~ petition may be filed with the secretary of state in
 8 numbered sections, for convenience in handling, and
 9 referendum petitions may be filed in sections in like
 10 manner."

11 Section 70. Section 37-201, R.C.M. 1947, is amended to
 12 read as follows:

13 "37-201. Form for people's initiative petition on the
 14 question of calling a constitutional convention. The
 15 following shall be substantially the form for the people's
 16 initiative petition on the question of calling a
 17 constitutional convention:

18 WARNING

19 Any person signing any name other than his own to this
 20 petition, or signing the same more than once for the same
 21 measure at one election, or who is not, at the time of
 22 signing the same, a qualified elector of this state, is
 23 punishable by a fine not exceeding ~~five--hundred--dollars~~
 24 ~~(\$500), or imprisonment in the penitentiary not exceeding~~
 25 ~~two--(2)--years, or by both. (Section 37-105, Revised Codes of~~

1 ~~Montana, 1947, county jail for a term not to exceed 6~~
 2 ~~months, or both, or imprisonment in the state prison for a~~
 3 ~~term not to exceed 10 years.~~

4 PEOPLE'S INITIATIVE PETITION

5 ON THE QUESTION OF CALLING

6 A CONSTITUTIONAL CONVENTION

7 To the Honorable, Secretary of State of the state
 8 of Montana:

9 We, the undersigned qualified electors of the state of
 10 Montana, respectfully request that the question of whether
 11 there shall be an undelimited convention to revise, alter, or
 12 amend the constitution be submitted to the qualified
 13 electors of the state of Montana for their approval or
 14 rejection at the general election to be held on the day
 15 of, 19.., and each qualified elector says for himself:

16 I have personally signed this petition, and my
 17 residence, ~~post-office~~ ~~post-office~~ address, and voting
 18 precinct are correctly written after my name.

19 Name Residence

20 ~~Post-office~~ ~~post-office~~ Address

21 If in city, street and number

22 Voting precinct Representative Dist. No.

23 (Each sheet shall be in substantially the form above and
 24 contain numbered lines for names.)"

25 Section 71. Section 37-202, R.C.M. 1947, is amended to

read as follows:

"37-202. Form for people's initiative petition for constitutional amendment. The following shall be substantially the form for people's initiative petition for constitutional amendment:

WARNING

Any person signing any name other than his own to this petition, or signing the same more than once for the same measure at one election, or who is not, at the time of signing the same, a qualified elector of this state, is punishable by a fine not exceeding ~~five hundred dollars (\$500)~~, or imprisonment in the ~~penitentiary not exceeding two (2) years, or by both.~~ ~~(Section 33-105, Revised Codes of Montana, 1947)~~ county jail for a term not to exceed 6 months, or both, or imprisonment in the state prison for a term not to exceed 10 years.

PEOPLE'S INITIATIVE PETITION

FOR CONSTITUTIONAL AMENDMENT

To the Honorable . . . , Secretary of State of the state of Montana:

We, the undersigned qualified electors of the state of Montana, respectfully request that the following proposed constitutional amendment ~~shall~~ be submitted to the qualified electors of the state of Montana, for their approval or rejection, at the statewide election to be held on the . . .

day of . . . , 19 . . . , and each qualified elector says for himself:

I have personally signed this petition, and my residence, ~~post-office~~ post-office address, and voting precinct are correctly written after my name.

Name Residence

~~Post-office~~ Post-office Address

If in city, street and number

Voting precinct Representative Dist. No.

(Each sheet for petitioner's signature shall be in substantially the form above and contain numbered lines for names. A full and correct copy of the title and text of the proposed constitutional amendment shall be included in or attached to each sheet of the petition.)"

Section 72. Section 37-103, R.C.M. 1947, is amended to read as follows:

"37-103. County clerk to verify signatures. (1) The county clerk of each county in which any ~~such~~ petition for initiative or referendum ~~shall be~~ is signed shall compare the signatures of the electors signing the same with their signatures on the registration books and blanks on file in his office, for the preceding general election, and shall thereupon attach to the sheets of ~~said~~ the petition containing ~~such~~ the signatures his certificate to the secretary of state, substantially as follows:

1 State of Montana, County of

2 To the Honorable, Secretary of State for Montana:

3 I,, county clerk of the county of, hereby
 4 certify that I have compared the signatures on (number of
 5 sheets) of the referendum (initiative) petition, attached
 6 hereto, with the signatures of said electors as they appear
 7 on the registration books and blanks in my office; and I
 8 ~~believe that the signatures of (names of signers), numbering~~
 9 ~~(number of genuine signatures) in each whole or partial~~
 10 ~~legislative representative district lying within the county~~
 11 ~~boundaries, are genuine. As to the remainder of the~~
 12 ~~signatures thereon, I believe that they are not genuine, for~~
 13 ~~the reasons that and I further certify that the~~
 14 ~~following names (....) do not appear on the registration~~
 15 ~~books and blanks in my office~~ certify that the signatures of
 16 (number) signers are genuine and are marked thus on
 17 the petition and I further certify that
 18 (number) signers marked thus on the petition
 19 do not appear on the registration books and
 20 blanks in my office.

21 Signed:

22, County Clerk.

23 (Seal of Office) By

24 Deputy

25 (2) Every such ~~Each~~ certificate ~~shall be~~ is prima

1 facie evidence of the facts stated therein, and of the
 2 qualifications of the electors whose signatures are thus
 3 certified to be genuine, and the secretary of state shall
 4 consider and count only ~~such those~~ signatures on ~~each the~~
 5 petitions as ~~shall be~~ are ~~as~~ certified by ~~said the~~ the county
 6 clerks to be genuine, ~~provided, that the~~ The secretary of
 7 state may consider and count such of the remaining
 8 signatures as may be proved to be genuine, ~~and that whenever~~
 9 the parties so signing were legally qualified to sign such
 10 petitions, ~~and but~~ the official certificate of a notary
 11 public of the county in which the signer resides ~~shall be~~ is
 12 required as to the fact for each of ~~such the~~ last-named
 13 signatures, ~~and the~~ The secretary of state shall further
 14 compare and verify the official signatures and seals of all
 15 notaries so certifying with their signatures and seals filed
 16 in his office. Such notaries' certificate shall be
 17 substantially in the following form:

18 State of Montana, ss.

19 County of

20 I,, a duly qualified and acting notary public in
 21 and for the above-named county and state, do hereby certify:
 22 that I am personally acquainted with each of the following
 23 named electors whose signatures are affixed to the annexed
 24 petition, and I know of my own knowledge that they are
 25 qualified electors of the state of Montana, and of the

county, legislative representative districts, and precincts written after their several names in the annexed petition, and that their residence and post-office address is correctly stated therein, to wit: (Names of such electors.)

In Testimony Whereof, I have hereunto set my hand and official seal this day of, 19...

Notary Public, in and for County,
State of Montana.

(3) The county clerk ~~shall~~ may not retain in his possession any such petition, or any part thereof, for a longer period than ~~two~~ 2 days for the first ~~two hundred~~ 200 signatures thereon, and ~~one~~ 1 additional day for each ~~two hundred~~ 200 additional signatures, or fraction thereof, on the sheets presented to him, and at the expiration of such time he shall forward the same to the secretary of state, with his certificate attached thereto, as above provided. The forms herein given are not mandatory, and if substantially followed in any petition, ~~it shall~~ will be sufficient, disregarding clerical and ~~merely~~ technical errors."

Section 73. Section 37-104.1, B.C.M. 1947, is amended to read as follows:

"37-104.1. ~~Attorney general's summary of referred or initiative measures statement by secretary of state for referendum measures placement on ballot~~ Statements by

~~attorney general and secretary of state.~~ The secretary of state ~~of the state of Montana~~ prior to certifying and numbering of a referendum, initiative, or constitutional amendment to the several counties of Montana as provided by ~~sections 37-105 and 23-1402 [23-3506] of the Revised Codes of Montana, 1947,~~ shall transmit a copy of the measure to be voted upon to the attorney general ~~of Montana.~~ Within ~~ten~~ 10 days after the measure is filed with him, the attorney general shall provide and return to the secretary of state a statement in ordinary plain language explaining in not more than ~~one hundred~~ 100 words the general purpose of the measure submitted. In the case of referendum measures, the secretary of state shall prepare a statement setting forth the vote by which the referendum passed each house of the ~~legislative assembly~~ legislature. The statement by the secretary of state shall precede the attorney general's statement on the printed form. The statement as prepared by the attorney general, and the statement of the secretary of state for referendum measures only, shall be in addition to the legislative title of the measure, On the printing of the ballot the statement of the secretary of state for referendum measures only and the statement of the attorney general shall precede the other title of the measure. In providing the statement, the attorney general shall give a true and impartial statement of the purpose of the measure

in plain, easily understood language and in such manner as shall ~~is~~ not be an argument or likely to create prejudice either for or against the measure."

Section 74. There is a new R.C.M. section that reads as follows:

Informational pamphlets. (1) Whenever a ballot issue is to be submitted to the people, the secretary of state shall have printed pamphlets containing the information specified in 37-107.

(2) Whenever more than one ballot issue is to be voted on at a single election, the secretary of state may publish a single pamphlet for all of the ballot issues.

(3) The pamphlets are to be distributed as provided in 37-107.

~~Section 75. Section 37-107, R.C.M., 1947, is amended to read as follows:~~

~~37-107. Printing and distribution of measures~~
~~Preparation of pamphlets. (1) The secretary of state shall furnish to the department of administration a copy of each of the proposed measures to be submitted to the people and make requisition on the department of administration for the printing and delivery to him of pamphlets for all proposed constitutional amendments, initiative, and referendum measures to be submitted to a vote of the people.~~

~~(2) The department of administration, thirty days later~~

~~than five (5) weeks before any general or special election, at which any proposed law is to be submitted to the people, have printed a true copy of the title and text of each measure to be submitted, with the number and form in which the question will be printed on the official ballot. The department of administration shall call for bids and contract with the lowest responsible bidder for the printing of pamphlets containing the proposed law to be submitted to the people.~~

~~(3) The proposed law to be submitted shall be printed and forwarded to the county clerk and recorder of each county.~~

~~(4) The number of proposed measures pamphlets to be printed shall be at least five per cent (5%) more than the number of qualified electors, as shown by the registration lists of the several counties of the state at the last preceding general election.~~

~~(5) The information to be printed shall be printed in the following order as applicable:~~

- ~~(a) the statement of the secretary of state;~~
- ~~(b) the statement of the attorney general;~~
- ~~(c) the title and body of the proposed measure;~~
- ~~(d) the exact text of the constitutional provision to be amended;~~
- ~~(e) the manner in which the measure will appear on~~

the ballot

-End-

~~(e) (1) the argument advocating approval of the measure~~

~~(f) (2) the argument advocating rejection of the measure~~

~~(g) (3) the argument rebutting the argument advocating approval and~~

~~(h) (4) the argument rebutting the argument advocating rejection~~

~~(6) The secretary of state shall distribute to each county clerk, no later than four (4) weeks before the election at which the proposed measure(s) will be voted upon, a sufficient number of pamphlets to furnish one copy to every voter in his county. Each county clerk shall mail to each registered voter in the county at least one copy of the pamphlet within two (2) weeks from the date of his receipt of the pamphlets from the secretary of state.~~

Section 75. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 76. Repealer. Sections 23-3021, 23-3030, and 23-4404, R.C.M. 1947, are repealed.